

Special Land Acquisition Officer, Bangalore

Vs

Abdul Basith

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Haji S. Mohamed Ismail

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Civil Appeals Nos. 123 & 404 of 1971 and 1621 & 1787 of 1970

(D.A. Desai, A.D. Koshal, R.B. Misra JJ)

01.04.1981

JUDGMENT

DESAI, J. –

1. All these four appeals arise out of an acquisition of land by a notification dated August 21, 1958 issued under Section 4 of the Land Acquisition Act. The market price as on the date of notification had to be determined for assessment and payment of compensation. The Land Acquisition Officer determined market price at the rate of Rs. 12,100 per acre for garden land and Rs. 520 per acre for kharab land. (Roughly Rs. 2.50 per sq. yard.) In reference to the Civil Judge, under Section 18 of the Land Acquisition Act the price was determined at the rate of Rs. 20,500 per acre which roughly works out at Rs. 6 per sq. yard. Ultimately, the matter went up to the High Court by two appeals one filed by Abdul Basith, respondent in Civil Appeal 123 of 1971 and the appellant in Civil Appeal 404 of 1971, and the other by Haji S. Mohamed Ismail, now deceased, appellant in Civil Appeal 1621 of 1970 and respondent in Civil Appeal 1787 of 1970. Haji S. Mohamed Ismail died and his legal representatives have been substituted. Civil Appeals 123 of 1971 and 1787 of 1970 have been filed by the State of Karnataka, while Civil Appeal 404 of 1971 and Civil Appeal 1621 of 1970 have been preferred by original claimants. The High Court determined market price of land on the relevant date at the rate of Rs. 12 per sq. yard and directed to award compensation accordingly. Hence these appeals under unamended Article 133(1)(a) and (b) by certificate.

2. These four appeals arise as cross-appeals two by the State of Karnataka and two by the original landholders against the award of Rs. 12 per sq. yard. Claimants contended that they should be awarded compensation at the rate of Rs. 20 per sq. yard while the State contended that the rate of Rs. 12 per sq. yard is much on the higher side and it must be reduced.
3. In Civil Appeal 123 of 1971, Mr. B.R.L. Iyengar made a specific grievance that even though there was a finding of the learned Civil Judge in reference under Section 18 that the land was marshy, that it was by side of a Halla/drainage channel, that the only access to it was by a footbridge and that these considerations had weighed with the Civil Judge in determining the rate of compensation, these vital and relevant considerations were wholly overlooked by the High Court while awarding compensation at the rate of Rs. 12 per sq. yard being in par with other claimants.
4. On the other hand claimants in two appeals contended that in view of the sale of entries Exs. P-2 of 1956 and P-21 of February 1958 the court should have awarded Rs. 20 per sq. yard as compensation.
5. In fact, Abdul Basith had no legitimacy in making the claim for enhanced compensation in his appeal to this Court because he had limited his claim in High Court to Rs. 62,332 giving up the rest of the claim and what he claimed in appeal has been awarded by the High Court. However, this becomes irrelevant because having gone through the judgment of the High Court and having heard learned counsel for the parties we are satisfied that no case is made out for interfering with the award of Rs. 12 per sq. yard. It is neither too high nor too low nor outside the bracket necessitating interference at our hand. Undoubtedly Ex. P-2 and Ex. P-21 may indicate the price paid in those transactions at the rate of Rs. 20. And indisputably the Government is a party to one of them. But that price cannot be accepted in entirety. Various relevant considerations pertinent to land valuation have been kept in view by the High Court for determining the price at Rs. 12 per sq. yard and we consider those reasons valid and relevant. May be one or two reasons from those that appealed to the High Court may not have appealed to us. So what. The question is whether the rate of Rs. 12 at which the compensation has been awarded by the High Court is correct or not. We are satisfied that it is so. No interference is called for.
6. In Civil Appeal 1621 of 1970 the interest is awarded at the rate of 5 percent while in Civil Appeal 404 of 1971 interest is awarded at the rate of 6 per cent from the date of acquisition. We see no justification for this disparity and therefore we allow Appeal 1621 of 1970 filed by deceased Haji S. Mohamed Ismail and modify the award to this limited extent that the rate of interest shall be 6 per cent from the date of acquisition till full amount is paid. In other respects Civil Appeal 1621 stands dismissed. Civil Appeals 123 of 1971, 404 of 1971 and 1787 of 1970 are also dismissed. Under the circumstances of the case there will be no order as to costs in any of the appeals as far as the hearing in this Court is concerned.

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