

Abdul Karim Allarakha

Vs

State of Rajasthan and Another

Civil Appeal No. 2483 of 1981

(A.P. Sen, A. Varadarajan JJ)

22.09.1981

JUDGMENT

SEN, J. -

1. The two points involved in this appeal by special leave from a judgment from the Rajasthan High Court are first as to the competency of the reference made by the Collector under Section 18 of the Rajasthan Land Acquisition Act, 1953 (hereinafter called 'the Act'), at the instance of the State Government, for reduction of the amount of compensation awarded by him and second, as to whether the Collector by his award having made an offer on behalf of the State Government, could have made a reference under Section 18 of the Act at all. For obvious reason, these question were not raised before the High Court. The acquisition was not under the Land Acquisition Act, 1894, but under the Rajasthan Land Acquisition Act, 1953. As compared with Section 18 of the Land Acquisition Act, 1894, the provisions of Section 18 of the Rajasthan Land Acquisition Act, 1953 are much wider in scope.

2. The facts are few and are not in dispute. The Land Acquisition Officer awarded a total compensation of Rs 6,92,317.34. We are not concerned with the compensation awarded for the building and the structures, but only with the compensation for the land acquired. On a reference under Section 18 of the Act made by the Collector at the instance of the State Government Department for which the property was acquired, the learned Civil Judge, Ajmer, reduced the amount of compensation for the land to Rs 40 per sq. yd. On appeal, the High Court enhanced the compensation amount to Rs 42 per sq. yd. and further granted an amount of Rs 5000 as compensation for the electric fittings and fixtures.

3. There can be no doubt as to the competency of the reference under Section 18(1) of the Act which reads as follows :

The State Government department on whose behalf or the company for which acquisition is being made or any person interested who has not accepted the award or the amendment thereof may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court whether his objection be to the measurement of the land, the amount of the compensation, the amount of costs allowed, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

It is clear upon the plain terms of the section that a reference may be had not only at the instance of the person interested who has not accepted the award or the amendment thereof, but also at the

instance of the authority acquiring land, i.e. on whose behalf or the company for which the acquisition is being made. The contention that the award made by the Land Acquisition Officer being an offer made on behalf of the State Government, the reference by the Collector under Section 18 of the Act for reduction of the amount of compensation awarded by him was not competent cannot be accepted. In Mohammed Hasnuddin v. State of Maharashtra ((1979) 2 SCC 572 : (1979) 2 SCR 265 : AIR 1979 SC 404), one of use (Sen, J.) observed : (SCC p. 580, para 17)

While it is true that the Collector in making the award under Section 11 acts as an agent of the Government, he in making a reference to the court under Section 18 acts as a statutory authority.

It is well settled after the decision of the Privy Council in Ezra v. Secretary of State for India ((1905) ILR 32 Cal 605), that the legislative has assigned to the Collector the position of an agent of the Government while making an award under Section 11. No doubt, the award made by the Land Acquisition Officer is in the nature of an offer, but it is subject to the right of the State Government to ask for a reference under Section 18 of the Act. Under Section 18 of the Act, one of the questions that may be referred by the Collector for the determination of the court is as to the objection to the amount of compensation awarded. If the State Government is dissatisfied with the award made by the Land Acquisition Officer, it may apply for a reference under Section 18 for reduction of the amount of compensation. The reference made by the Collector under Section 18 of the Act as to the amount of compensation was, therefore, competent. Both the points must, therefore, be answered in favour of the respondent.

4. Two other question are raised, one relating to award of solatium on the enhanced amount of compensation and the other to the grant of interest thereon. The High Court has enhanced the amount of compensation awarded for the land to Rs 42 per sq. yd. as against Rs 40 per sq. yd. awarded by the learned Civil Judge, and has also awarded Rs 5000 towards the electric fittings and fixtures. The rest of the judgment passed by the learned Civil Judge has been maintained. We wish to clarify that the enhanced amount of compensation will carry the usual solatium at the rate of 10 per cent as also interest at the rate of 4 per cent per annum thereon from the date of the award of the Land Acquisition Officer till realisation. There shall be no order as to costs.

</html