

Vijaysingh Liladhar

Vs

Special Land Acquisition Officer

Nathumal Rajmal Baldota

Vs

Special Land Acquisition Officer

Civil Appeals Nos. 1561 and 817 of 1973

(M. P. Thakkar, B. C. Ray JJ)

21.07.1988

JUDGMENT

THAKKAR, J. –

1. The appellants are original claimants whose lands were placed under acquisition pursuant to a notification under Section 4 of the Land Acquisition Act published on March 8, 1956. By the said notification a large block of undeveloped agricultural land admeasuring about 101 acres 33 gunthas was placed under acquisition for a public purpose viz. : for construction of the 'Headquarters, Poona Rural Police Charge'. Dissatisfied with the determination of market value made by the High Court by its judgment dated March 1, 1972 the appellants have approached this Court by way of the present appeals [By certificate under Article 133(1)(a) of the Constitution of India as it existed at the material time]. Another land owner whose lands were placed under acquisition, by the identical notification for the identical purpose has also approached this Court by way of Civil Appeals Nos. 2721 and 2722(N) of 1972 [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona. (1988) 3 SCC 751] which are being disposed of by a separate judgment. Since the lands belonging to the appellants were acquired under the identical notification and the appeals relating to said lands were also disposed of by the High Court by the aforesaid common judgment rendered on March 1, 1972, the present appeals by special leave were heard together with the aforesaid two appeals. As the questions involved in the present two appeals are common and the reasoning which commended to the High Court applies equally to the matters pertaining to the appellants, the present appeals can also be conveniently dealt with in accordance with the view taken by us in the case of Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona. (1988) 3 SCC 751].

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2. In the present appeal, the land under acquisition is comprised in Survey Nos. 85 and 86. There were also two parcels of lands, one admeasuring 2 acres and 1/4 gunthas, and another admeasuring 13 acres and 17 gunthas. Insofar as the smaller parcel admeasuring 2 acres and 1/4 gunthas is concerned, the trial court has awarded Rs. 33,975 by way of compensation. The High Court has increased the amount awarded to the appellant from Rs. 33,975 to Rs. 35,223.98. No doubt the basis

of computation adopted by the High Court is different from the basis adopted by the trial court. But in the ultimate result the High Court has enhanced the compensation. It is not shown that the High Court has undervalued the lands. No good reason is shown to interfere with the total amount of compensation awarded by the High Court. The amount awarded by the High Court will accordingly remain undisturbed.

3. Insofar as the larger parcel admeasuring 13 acres and 17 gunthas is concerned, the High Court has taken the view that this land forming a part of Survey No. 86 was situated much in the interior. Having regard to the situation, the High Court was of the opinion that development would take about 12 years to reach the appellant's land. On this premise the High Court has valued the land at Rs. 7000 per acre. The High Court has also reached the conclusion that a deduction of 25 per cent required to be made for setting aside land for roads and open spaces etc. So far, the High Court's view is unexceptionable. But having computed the compensation on these premises, the High Court further directed that a further deduction should be made in order to find out the 'present value' of the total amount computed on the basis of valuation at Rs. 7000 (less 25 per cent) on the premise that this amount would come to the hands of the vendor only after 12 years. In *Chimanlal Hargovinddas case [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona. (1988) 3 SCC 751]* we have taken the view that the High Court was perfectly justified in determining the market value at Rs. 7000, subject to deduction at 25 per cent to account for land needed for roads and open spaces etc. We have also taken the view that the High Court was not justified in directing that a further deduction should be made on the basis of Miram's Tables in order to find out the 'present value' of the sum computed on the aforesaid basis on the premise that this amount would be fetched after a time lag of 12 years. It is not necessary to reiterate the same reasoning in the context of the present appeals for the reasons have been elaborately set out in *Chimanlal Hargovinddas case [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona. (1988) 3 SCC 751]*. We must accordingly pass an order in the same terms as we passed in *Chimanlal Case [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona (1988) 3 SCC 751]* : (SCC p. 760 para 12)

In the result appellant must be awarded compensation at Rs. 7000 per acre subject to deduction or allowance of 25 per cent to account for land required to be set apart for roads, open spaces etc. In other words appellant will be entitled to be paid compensation for 13 acres 7 gunthas comprised in Survey No. 85 at Rs. 5250 per acre (Rs. 7000 less 25 per cent i.e. less 1750 = Rs. 5250) in place of the lesser sum awarded by the High Court. This appeal must be partly allowed to this extent accordingly.

Civil Appeal No. 817 of 1973

4. The land under acquisition admeasures 19 acres and 33, gunthas. The High Court has formed the opinion that inasmuch as the land in question is situated very much in the interior, development would take about 12 years to reach the said parcel of land. Accordingly the High Court has determined the market value at Rs. 7000 per acre. As in the companion matters the High Court had directed a deduction of 25 per cent to account for the extent of land required to be set apart for roads and open spaces. So far no exception can be taken. However the High Court has also directed that a further deduction should be made in order to ascertain the 'present value' of the total amount of compensation payable to the appellant having regard to the fact that such amount would come into the hands of the vendor after 12 years. For the reasons we have set out at length in *Chimanlal case [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona (1988) 3 SCC 751]* while we confirm the determination of the market value at Rs. 7000 per acre and the direction regarding setting apart of 25 per cent to account for land required to be set aside for roads and open spaces, we

are of the opinion that the direction to make a further deduction by recourse to Miram's Table in order to deduce the 'present value' of the land in question cannot be sustained. Under the circumstances in the matter of the appellant also an order in the following terms must be passed as has been done in Chimanlal Hargovinddas case [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona (1988) 3 SCC 751] and in Civil Appeal No. 1561(N) of 1973 dealt with a short while ago :

In the result appellant must be awarded compensation at Rs. 7000 per acre subject to deduction or allowance of 25 per cent to account for land required to be set apart for roads, open spaces etc. In other words appellant will be entitled to be paid compensation for 19 acres 33 gunthas at Rs. 5250 per acre (Rs. 7000 less 25 per cent i.e. less Rs. 1750 = Rs. 5250) in place of the lesser sum awarded by the High Court. This appeal must be partly allowed to this extent accordingly.

The following further order which will govern both appeals viz. Civil Appeals Nos. 1561(N) and also 817 of 1973 requires to be passed as was done in the case of Chimanlal Hargovinddas case [Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona (1988) 3 SCC 751] : (SCC p. 760, para 13)

The question however remains whether the appellants are entitled to the benefit of Central Amending Act (Act 68 of 1984) providing payment of solatium and interest at enhanced rates on the ground that present appeals were pending before this Court on April 30, 1982. The appellants would be entitled to the benefit thereof by virtue of Section 30(2) of the Act if the view is taken that the said Act has retrospective operation in the sense that amended Section 23(2) and Section 28 apply also in relation to an order under appeal against an award made by the Collector or court between April 30, 1982 and the commencement of the Amending Act. This must depend on the decision of the Constitution Bench which is expected soon. The appellant will be entitled to the benefit of Central Amending Act (Act 68 of 1984) in case the Constitution Bench upholds the view expressed in Bhag Singh case [Bhag Singh v. Union Territory of Chandigarh, (1985) 3 SCC 737] and overrules the view expressed in Kamalajammanniavar case [K. Kamalajammanniavar v. Special Land Acquisition Officer, (1985) 11 SCC 582]. In case the Constitution Bench affirms the view taken in Kamalajammanniavar case [K. Kamalajammanniavar v. Special Land Acquisition Officer, (1985) 1 SCC 582], the appellants will not be entitled to such benefit.

5. Appeals are partly allowed accordingly to the aforesaid extent. Order passed by the High Court is modified to the corresponding extent.

6. Having regard to the facts and circumstances of the case there will be no order regarding costs in this Court.

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