

A. S. Krishna & Co. Pvt. Ltd.

Vs

Land Acquisition Officer (Deputy Collector) Hyderabad

Civil Appeal Nos. 4538-39 of 1991

(CJI Ranganath Misra, S. Mohan JJ)

19.11.1991

JUDGMENT

RANGANATH MISRA, C.J. –

1. Special leave granted.

2. By Notification dated January 12, 1973, under Section 4 (1) of the Land Acquisition Act, 1984 as modified by Notification of July 27, 1978, 26 acres and 26 gunthas of land located within the Hyderabad District was notified for acquisition for the Bhagyanagar Urban Development Authority. A similar notification was published on June 14, 1979 for acquisition of two acres and 29 gunthas. The Land Acquisition Officer made his award for both the properties on June 10, 1982 fixing the market value at Rs. 42,000 per acre with five per cent deduction towards development cost. Being dissatisfied with the awards passed by Land Acquisition Officer, a reference was sought and made under Section 18 of the Act. The claimants demanded compensation at the rate of Rs. 200 per square yard. The civil Court fixed the market value at Rs. 200 per sq. yd. as demanded but directed deduction of 20 per cent towards development charges. The Land Acquisition Officer carried appeals against the escalation of compensation and the present appellants preferred cross-objections. The High Court re-assessed the entire evidence and came to hold :

"Today the position of the acquired lands is altogether different. It is common knowledge that the prices started scaling high from 1980 onwards and this part of Hyderabad, namely, Gaddiannaram started developing from 1980 and today it is undoubtedly one of the important areas in Hyderabad. But we must consider the position as it stood in 1978 and 1979. Taking all the circumstances into account, we think it reasonable to fix the market value at Rs. 3 Lakhs per acre. The civil Court had given a deduction of 20 per cent towards development charges.

The learned Advocate General Contended that deduction should be enhanced to 33 1/3 per cent. We do not think that any interference is called for in this regards. The lands are abutting the highway. Evidence shows that there are roads on three sides. Hence we maintain to deduction of 20 per cent and if so done, the market value comes to Rs. 2,40,000 which works out at Rs. 50 Per sq. yd. The trial court has awarded Rs. 200 per sq. yd. with a deduction of 20 percent which comes to 160 per sq. yd. we are unable to sustain the order of the Court below on any justification grounds. We accordingly set aside the judgment and decree and determine the market value at the rate of Rs. 50 per sq. yd."

It is against this deduction in compensation that the claimants have come to this Court in appeal.

3. The collector had adopted a deduction of five per cent. The referee Court adopted the deduction at 20 Per cent and High Court rejecting the claim of the Advocate General that deduction should be one third put it at the one-fifth. We find that the High Court did not go by the percentage of deduction. In fact, According to the High Court and particularly as the portion we have extracted above would show the appropriate market value per square yard was Rs. 50 and if a 20 percent deduction from out of Rs. 3 lakhs per acre was accepted, it worked out that way. The Judgment of the High court gives us the impression that in fixing the Compensation, the High Court did not go by the percentage of deduction but Kept in view the market value of the land at the time of the notification under section 4 (1) of the Act. There is clear material and the High Court has accepted it that price went up in the area after 1980. The notifications are within a range of a year or two from that time. Therefore the valuation after 1980 is not the guideline. Having looked into the material accepted by the High Court, we are not in a position to disturb the finding recorded by the High court. The appeals are accordingly dismissed. No costs.

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