

Saraswati Devi and others

Vs

U.P. Government and another

Civil Appeal No. 1420 of 1973

(N. M. Kasliwal, K. Ramaswamy JJ)

15.05.1992

JUDGEMENT

KASLIWAL, J.

1. This appeal by grant of special leave is directed against the judgment of the Allahabad High Court dated 9-7-1971.
2. A large area of land was acquired by issuance of a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") published in the Gazette on 17th July, 1947. Out of such land, an area of 19 bighas, 4 biswas, 3 biswansis and 11 kachwansis belonged to the claimants-appellants. The area in terms of square yards was nearly 59462 sq. yards. The Land Acquisition Officer determined the market value of the land on the basis of the use to which the land was put on the date of the Notification issued under Section 4 of the Act. It was held that part of the land was being used as agricultural land, and part of it was lying wholly unutilised, as the same was unfit for any practical purposes. The value of the total land on the basis of its use as agricultural land came to Rs. 600/- only. The Additional District Judge as well as the High Court affirmed the order of the Land Acquisition Officer.
3. Aggrieved against the aforesaid orders, the claimants have come in appeal to this Court.
4. The learned Additional District Judge, Meerut held that the acquisition of the land in the present case was for purposes mentioned in clause (a) of Section 8(1) of the U.P. Municipalities Act, 1916. It was contended on behalf of the appellants that the pre-dominant purpose was to acquire land in order to make building colonies by constructing new public streets and residential buildings abutting them. It was contended that the land in question was situated within the limits of Ghaziabad Municipal Board on the public road and as such it was a building side and the compensation awarded was too low. According to the learned Counsel, the compensation should have been awarded at least at the rate of Rs. 3 per sq. yard.
5. We agree with the view taken by the High Court to the extent that Section 66 of the U.P. Town Improvement Act, 1919 provides that the modifications mentioned in the Schedule will apply when the land is acquired for purposes mentioned in clause (a) of Section 8(1) of the Municipalities Act, and the same will apply in the present case. The High Court was further right in taking the view that the market value shall be determined according to the use to which the land was put on the date of Notification under Section 4 of the Act, namely 17th July, 1947. However, even if the above principle is applied, in our view, the claimants were entitled to the value of the land at the rate of rupee one per sq. yard.

6. A perusal of the record shows that the question of valuation of the land had been taken up by the Land Acquisition Officer at an earlier occasion and he had suggested that the land may be valued at a flat rate of rupee one, per sq. yard as he held that the land under acquisition was suitable for building purposes. However, the Collector did not agree with the said proposal and by his order dated 31-1-1950 directed that the land should not be treated as a building site, and the award be prepared in the ordinary fashion. On filing objections by the claimants the Collector by an order dated 19-5-1950 directed that plotwise assessment be made as it was not possible to apply a flat rate for the whole area. Subsequently, another Land Acquisition Officer determined the market value of the land according to the use to which the land was put and determined the compensation treating the entire land as being put for the use as agricultural land. The record further shows that initially the area to be acquired was shown as 71 bighas, 11 biswas and 10 biswansis situated in Mauza Dhonja, Pargana Loni, District Meerut in the Notification issued under Section 4 of the Act. Subsequently the area was reduced to 57 bighas, 5 biswas and 2 biswansis in the Notification issued under Section 6 of the Act. This was done on account of the fact that land measuring 14 bighas, 6 biswas and 8 biswansis had been sold out for the construction of building even prior to the issuance of Notification S under Section 4 of the Act. This clearly goes to establish that the land sought to be acquired had already been put to the use of building constructions. It is further important to note that the Additional District Judge himself while deciding the question of awarding costs has observed as under:-

"It may be seen that the applicants had demanded compensation at the rate of Rs. 3 per sq. yard. The compensation claimed cannot be said to be really excessive and if I had held that the acquisition of the land did not fall under Section 8(i)(a), of the U.P. Municipalities Act, the compensation awarded by the Land Acquisition Officer would certainly have been held to be inadequate by me and would have been enhanced to a considerable extent, if not actually to the extent of Rs. 3 /- per sq. yard. The claim of the applicants for enhanced compensation, therefore, fails on a technical point."

7. The award of Rs. 600/- as total compensation for the entire land approximately 59462 sq. yards comes to nearly one paisa per sq. yard which is nothing more than for a song. Under the prevailing law, the claimants have not been given any solatium and the Government had taken possession of the acquired land on 11th August, 1953 and 30th June, 1954.

8. Thus taking in view the entire facts and circumstances of the case, the claimants are entitled to compensation at the rate of Re. 1 /- per sq. yard. The claimants-appellants would also be entitled to interest at the rate of 6 per cent per annum from the date they are deprived of possession till payment. The respondents would pay the enhanced amount of compensation within three months, failing which the amount would carry interest at the rate of 9 per cent per annum from the date of the present order till payment.

9. In the result, the appeal succeeds in part as indicated above with no order as to costs.

Appeal partly allowed.

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