

Ahmedabad Municipal Corpn. and Others

Vs

Shardaben and Others

Civil Appeals Nos. 2950-91 of 1996 with Nos. 3478-82, 3474-77 and 3468-73 of 1996

(K. Ramaswamy, G. T. Nanavati JJ)

19.01.1996

ORDER

1. Leave granted.

2. We have heard learned counsel for both sides. The notification under Section 4(1) of the Land Acquisition Act (Act 1 of 1894) (for short "the Act") was published on 23-9-1980 acquiring a large extent of land in different survey numbers for laying Ring Road around Ahmedabad City. The Land Acquisition Officer passed three awards relating to two villages, Wadaj and Memnagar on three different dates, namely, 29-9-1984, 31-12-1985 and 23-9-1986 fixing compensation ranging between Rs 50-80 per square metre. Dissatisfied therewith, the claimants sought references under Section 18. The City Civil Court at Ahmedabad by three awards determined the compensation. In the first award, the civil court enhanced the compensation to Rs 100 per square metre and in the next two awards, it confirmed the award of the Land Acquisition Officer. In other words, he made nil award. On appeal under Section 54 of the Act, the Division Bench of the High Court in the impugned judgment dated 4-8-1993/5-8-1993 uniformly enhanced the compensation to Rs 190 per square metre. Thus, there appeals by special leave.

3. Mr B.K. Mehta, learned counsel for the appellants, vehemently contended that the High Court was wrong in its view. When no specific evidence relatable to particular survey number of comparable sale had been adduced by the parties, the High Court was wrong in adopting the average and determining the compensation on the basis of the average. Though we find force in the contention of learned counsel for the appellants, one important distinguishing feature which we have to notice in these appeals is that the acquisition relates to small strips of lands comprised in different survey number cutting into several lands for the purpose of laying a running Ring Road. In other words, the acquired land does not consist of a compact block for determination of compensation in which event the criticism of Shri Mehta would bear relevance and would need closer scrutiny and examination. The burden is always on the claimants to prove by adducing reliable evidence that the compensation offered by the Land Acquisition Officer is inadequate and the lands are capable of fetching higher market value. It is the duty of the court to closely scrutinise the evidence, apply the test of prudent and willing purchaser, i.e., whether he would be willing to purchase in open and normal market conditions of the acquired lands and then determine just and adequate compensation.

4. In these appeals we find that the claimants have adduced evidence regarding sales of some lands in the locality. Though the evidence as regards comparability of those lands with the lands under acquisition was general and not specific, it could still be relied upon. So also, though the sale instances were of lands situated near some of the lands acquired only, they could still be relied upon as acquisition in these cases is of contiguous plots. In the very nature of acquisition, it would be

difficult to find evidence of sale of land identical with each piece of land acquired. Under these circumstances, the High Court has looked into the evidence generally and broadly and then determined the compensation. Though this Court has repeatedly not approved of the principle of determination of compensation on the basis of average, the conclusion reached by the High Court in the peculiar facts and circumstances of these cases, cannot be said to be unreasonable. Under these circumstances, we do not think that these appeals call for any interference for further enhancement of the compensation to reduce the market value.

5. The appellant Corporation is directed to pay the balance amount and interest within four months from today. Contempt Petitions Nos. 13-17 of 1995 and IAs Nos. 45-70 are dismissed.

6. These appeals and cross-appeals are accordingly dismissed. No costs.