

M. B. Gopala Krishna and others

Vs

Special Deputy Collector, Land Acquisition

Civil Appeal No. 3350-3351 of 1996

(K. Ramaswamy, B. L. Hansaria JJ)

07.02.1996

JUDGMENT

1. Leave granted.

2. We have heard learned counsel on both sides.

3. The notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published in the State Gazette on October 9, 1980 acquiring large extent of land admeasuring 105 acres for defence purposes. The Land Acquisition Officer (LAO) awarded compensation @ Rs. 30/- per square yard by his award dated July 16, 1982. On reference, the Civil Court enhanced the compensation by its award and decree dated March 31, 1986 to a sum of Rs. 108/- per square yard. Being dissatisfied with the award, the respondent filed the appeal. The claimants also filed their cross-objections. The High Court in the impugned judgment and order dated March 31, 1992 made in CCCA Nos. 60-64 of 1986 reduced the compensation after the deductions to Rs. 65/- per square yard in respect of land abutting road and Rs. 60/- per square yard in respect of other land. Thereby, it allowed the appeal of the respondents and dismissed the cross-objections. Against the order of the High Court reducing the compensation, these appeals by special leave have been filed.

4. Shri Mukul Mudgal, learned counsel for the appellants, firstly contended that the High Court has committed an error in relying upon another judgment reducing the compensation to Rs. 60/- per square yard wherein the High Court had relied upon a sale deed Ex. A3. The lands of the appellants admeasure 17 acres and 17 gunthas, while the lands covered in that appeal were of the extent of 21 acres and 18 gunthas but all the lands are covered by the common notification. Under these circumstances, the High Court with a view to maintain consistency has relied upon a sale deed Ex. A3 produced therein which was accepted in CCCA No. 11/1985 and finally reduced the compensation to Rs. 60/- per square yard. We need not go into the correctness of the High Court's relying upon a single sale deed Ex. A3 in determining compensation at uniform rate since the State did not come in appeal. Suffice it to state that Rs. 60/- per square yard is just and adequate.

5. It is further contended by Shri Mudgal that value of the land does not get pegged down on account of the land being in occupation of a tenant and the circumstances in this behalf taken into account by the High Court, is irrelevant. We find no force in the contention. A freehold land and one burdened with encumbrances do make a big difference in attracting willing buyers. A freehold land normally commands higher compensation while the land burdened with encumbrances secures lesser price. The fact of a tenant in occupation would be an encumbrance and no willing purchaser would willingly offer the same price as would be offered for a freehold land. Under those circumstances, the High Court would be right in its conclusion that the land burdened with

encumbrances takes lesser price than the freehold land. The encumbrances would operate as a disabling factor to peg down the price when we compare the same with freehold land.

6. Considered in the perspectives, we hold that the reduction of the compensation from Rs. 108/- to Rs. 60 and Rs. 65.- per square yard is not unjustified.

7. Appeals are accordingly dismissed. No costs. Appeal dismissed.