

Vitthalbhai Bakorbhai (dead) through LRs. and Others

Vs

Executive Engineer, Capital Project and Another

Civil Appeal No 4289 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

01.03.1996

JUDGMENT

1. Leave granted.

2. We have heard learned counsel on both sides.

3. These appeals by special leave arise from various judgments of Gujarat High Court. Facts in first of them, viz., C. A. @ S. L. P. (C) No. 24953/95 directed against First Appeal No. 704/94 would be sufficient for disposal of all the appeals. The High Court determined the compensation at the rate of Rs. 50/- per sq. meter (after giving due deductions). Notification under Section 4(1) of the Land Acquisition Act, 1894 was published on July 7, 1983. The Land Acquisition Officer determined compensation between Rs. 20/- and Rs. 24/- per sq. meter. On reference under Section 18, Civil Court fixed it between Rs. 94 and Rs. 110 per sq. meter. On appeal under Section 54 the High Court reduced the compensation to Rs. 50/- per sq. meter. The lands in this case are situated in Vavol Village which is now part of different sectors of Gandhi Nagar. The lands are in Sector 4. The High Court has pointed that though Sector 4 was under-developed area as stated by the reference Court, the plots of land under sale are situate in developed area, their claim for compensation @ Rs. 300/- per sq. meter cannot be accepted. The High Court relied upon the yield of the income after taking into consideration all the attendant circumstances and more particularly the location of the land, its proximity to developed area and the existing potentials of its use etc. and applying the multiplier of 10, determined the compensation at the rate of Rs. 50/- per sq. meter. Shri Bhatt, learned senior counsel has contended that when the lands are situated in developing area and plots in developed area were already sold after sloughing at the rate of Rs. 330/- per sq. meter after giving due deduction, the determination of the compensation at the rate of Rs. 50/- is inadequate. He also contended that for the same land in the same village acquired by notification dated January 29, 1978 market value was determined at the rate of Rs. 80/- per sq. meter which was allowed to become final. The appellants are entitled at least to that rate. He further contended that by virtue of another notification dated February 18, 1981 in respect of lands situated at close proximity of 300 meters to the lands covered in the present notification dated January 15, 1978, the appellants are entitled to compensation at the rate of least Rs. 80/-. It is contended by Smt. H. Wahi, learned counsel for respondents that the High Court has considered all the relevant facts of the case and taken a pragmatic view in determining the compensation. The view arrived at by the High Court cannot be said to be incorrect compensation. When the High Court had determined compensation at the rate of Rs. 50/- per sq. meter for the acquisition of 1983 for the lands covered by acquisition of 1981 cannot be higher than the rate of Rs. 50/- per sq. meter though there is no evidence as to under what circumstances the appeal against the award dated January 29, 1978 had come to become final. It cannot be a ground to further enhance the compensation to the land when the Court, on the relevant

evidence, had adjudged the reasonable compensation and determined the market value at Rs. 50/- per sq. meter.

4. Having given anxious consideration to the respective contentions, the question arises : as to what will be the reasonable market value for the acquired lands? In these appeals, all the acquired lands are situated in Vavol Village in Sector 4. The High Court has recorded a finding that it is not a developed area. The Reference Court also has noted that some of the lands are agricultural lands. On the basis thereof, the Reference Court has determined the compensation. All the sale instances of the lands sold in the developed area for determination of compensation by the Reference Court, as pointed by the High Court are clearly illegal. Because they are not sales comparable to the sale of lands in question. The High Court, therefore, relied upon the yield of income and applied multiplier of 10. It is now settled law that multiplier of 10 is appropriate multiplier. Proper basis for evacuating the market value is the annual yield. The finding recorded by the High Court is that the lands are, as existing, capable of fetching market value at the rate of Rs. 50/- per sq. meter. In view of the reason recorded by the High Court, we cannot say that the finding is vitiated by any application of wrong principle of law. It is true that in respect of 1978 acquisition no appeal came to be filed, but we do not see any reason as to why the appeal could not be filed. The lands covered in the notification dated February 1981 cannot be given higher compensation than given in respect of land acquired under notification dated July 7, 1983. The reasoning adopted by the High Court, therefore, is not vitiated by any error of law.

5. The appeal and consequentially all connected appeals are accordingly dismissed. No costs. Appeal dismissed.