

Rajashekar Sankappa Taradandi and others

Vs

Asstt. Commissioner and Land Acquisition Officer and others

Civil Appeal No. 5130 of 1996

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

15.03.1996

JUDGMENT

1. Leave granted.

2. We have heard the counsel on both sides.

3. Notification under Section 4(1) of the Land Acquisition Act 1 of 1894 (for short the 'Act') acquiring 13 acres 29 gunthas of land near Dharwad City for extension of the A.P.M.C. Yard, was published on December 20, 1979. The Land Acquisition Officer in his award dated September 23, 1986 determined the compensation at the rate of Rs. 18,000/- per acre. On reference, the civil Court, exhibiting its feats of imagination, and by award and decree dated April 24, 1992 determined the compensation at the rate of Rs. 12.90 per sq.ft., which worked out to Rs. 5,61,729/- per acre. On appeal, in MFA No.2455/92 by judgment and order dated March 4, 1994 the Karnataka High Court has reduced the compensation to Rs.65,000/- per acre. Thus this appeal by special leave.

4. Shri Vidya Sagar, learned counsel for the appellant has contended that the High Court having found that the lands are situated near developed area and also in view of the evidence of the Commissioner appointed in this case, has committed grievous error of law in reducing the compensation to Rs.65,000/- per acre. We find no force in the contention. The evidence discloses that the developed area was at a considerable distance. The nearest developed place - central bus stand - is situated at a distance of 1-1/2 to 2.00 k.m. from the acquired land. The Commissioner in this case has stated the existing features of the year 1992. By the time of his inspection, i.e., between 1979 and 1992 much development had taken place and, therefore, no reliance was rightly placed on the evidence of the Commissioner. The High Court has considered the circumstances that the lands had potentiality as non-agricultural land and that their value has been determined on that basis. After considering all the relevant aspects, the value of the lands was determined at the rate of Rupees 65,000/- per acre.

5. It is settled law that the Court has the duty to carefully value the evidence and determine the compensation which is just an adequate for the lands acquired under compulsory acquisition. Its also settled law that the Court has to sit in the arm chair of a willing purchaser in an open market with prevailing market conditions as on the date of publication of Section 4(1) notification and to determine, whether a willing purchaser, if offered the lands in an open market for sale, would be prepared to purchase the land at the rate at which the Court is called upon to determine compensation on the basis of evidence on record. Unfortunately, the Civil Judge had exhibited, as stated earlier, his feats of imagination and determined the compensation at sky-high rate on the basis of three sale deeds, Ex.P-8 to Ex.P-10 of which two sale deeds relate to small extents of 92 sq.yards

and 128 sq.yards. The High Court, therefore, rightly determined the compensation by reducing the value by 10% and fixed at 12.90 per sq.ft. This Court in Periyar and Pareekanni Rubbers Ltd. v. State of Kerala, AIR 1990 SC 2192 at 2198, para 8, described the official conduct within the net of misconduct thus:

"In appropriate cases it may be open to draw inferences even from judicial acts of the misconduct. The rule of conduct spurned by this Court squarely put the nail on the official act as a refuge to fix arbitrary and unreasonable market value and the person concerned shall not camouflage the official act to a hidden conduct in the function of fixing arbitrary or unreasonable compensation to the acquired land."

6. The High Court has rightly rejected the approach adopted by the reference Court. In view of the fact that as on the date of the notification there was no development in that area, though the lands were capable to be put to non-agricultural use and that Section 24, clause fifthly prohibits taking into consideration of the future potentiality because of acquisition in determining compensation, the High Court rightly had determined the compensation at Rs. 65,000/- per acre. As the State did not file any appeal, we confirm the High Court order and find no justification to further enhance the market value.

7. The appeal is accordingly dismissed, but, in the circumstances, without costs. Appeal dismissed.