

Land Acquisition Officer & Assistant Commissioner, Mangalore

Vs

Belekal Krishna Bhat

Civil Appeals Nos. 4415-16 of 1986

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

07.08.1996

ORDER

1. A notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short 'the Act') was published in the State Gazette on 17-9-1970 acquiring 11 cents of land in question for establishing a post office. The Land Acquisition Officer determined the compensation at Rs 2,50,000 per acre. On reference, the Civil Judge by his award and decree dated 28-5-1977 enhanced the compensation to Rs 4,50,000 per acre. On further appeal under Section 54 of the Act, the High Court by the impugned judgment dated 26-5-1982 further enhanced the amount to Rs 6,00,000 per acre. Thus this appeal by special leave.

2. It is not in dispute that the respondent relied upon the sale deed (Exh. P-9) dated 12-8-1970 executed by PW 2 under which 71/12 cents were sold at the rate of Rs 48,000 which worked out to the rate of Rs 6 lakhs per acre. Another document relied on was Exh. P-7, lease deed dated 10-7-1961 with provision renewal for a further period of ten years. The renewal from time to time first of which would be in 19-7-1971 with the enhanced lease amount which would work out on applying suitable multiplier to the rate of Rs 5280 per year. With the said multiplier, the compensation would work out to Rs 4,50,000 per acre.

3. The question is whether the High Court was right in placing reliance on Exh. P-9, sale deed ? It was suggested to the witness in the cross-examination that he was aware of the acquisition and having had knowledge he got the sale deed executed to inflate the market value. He admitted that he was aware of the proposed acquisition and that thereafter the sale deed came to be executed. The High Court has interpreted this admission as the 'not' was not omitted in recording the evidence and that, therefore, 'not' was to be added. Adding the word 'not', the High Court held that he denied the knowledge of acquisition. The Civil Judge has rightly considered this aspect of the matter and recorded the finding that sale under Exh. P-9 is not a bona fide transaction and was pressed in to serve to inflate the market value. The reasoning of the Civil Judge is correct. The High Court read something which was not recorded. The witness had admitted that he was aware of impending acquisition and got the sale deed executed; yet the High Court held that the Civil Judge would not have omitted the word 'not'. If really the witness had denied and yet the Judges wanted to, then the witness would have objected at the time of recording or signing the evidence of the witness which was not done. The counsel who appeared before the civil court has also not contested it to be a mistake. Therefore, it was not open to the learned Judges of the High Court to read something which would defuse the effect of the admission made by the witness. Even otherwise, it would be common knowledge that the acquisition would take a long time. It would be known to the people in the locality, when documents proximate to the time of acquisition were set up for inflating the compensation. The court has to look into the attending circumstances whether documents are

brought into existence with the intention to inflate the market value or are true and genuine documents; consideration is a device to know whether the vendor and the vendee are genuine parties or privy to pass off sale process. The Civil Judge has rightly gone into all these questions and disbelieved Exh. P-9 as a genuine one. The Division Bench was, therefore, not at all justified in reversing that finding of the Civil Judge on strange reasoning and came to its own conclusion. It is settled law that the Civil Judge had advantage to observe the demeanour of the witness in the witness-box and he formed his own opinion about the witness which the appellate court did not have.

4. The appeal is accordingly allowed. The judgment and decree of the High Court is set aside and that of the Reference Court, Civil Judge stands restored, but, in the circumstances, without costs.