

Chintaman and Another

Vs

State of Maharashtra and Another

Civil Appeals Nos. 10215-16 of 1983

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

07.08.1996

ORDER

1. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was published in respect of different parcels of lands on 23-2-1964 and 1-3-1964 acquiring an extent of 6.67 acres in the first notification and 2.75 acres in the second notification for the purpose of setting up a spinning mill. The lands are situated near Nagpur Municipal Corporation practically now within urban agglomeration. The Land Acquisition Officer in his award dated 6-10-1966, determined the compensation @ Rs 5000 per acre in respect of some lands Rs 3000 per acre in respect of other lands in the first notification and Rs 2000 per acre for the lands in the second notification and solatium and interest under Section 23(2) and Section 34 of the Act.

2. On reference, the civil court by decree and award dated 18-11-1968 enhanced the compensation to Rs 0.40 per sq. ft. On appeal by the State and cross-objection by the claimants, the High Court reversed the decree and award of the Reference Court and confirmed the award of the Collector. Thus, these appeals by special leave.

3. Though the learned counsel for the appellants stated that the High Court was in error in not relying upon the sale deed (Exts. 39 and 40) to an extent of Rs 5000 per sq. ft. and Rs 4000 per sq. ft. respectively, the High Court was wholly right in its conclusion for the reason that neither the sale deeds nor the certified copies thereof were exhibited in the Court. In these circumstances, the documents are inadmissible, though the witnesses. AWs 9 and 10 have been examined to speak on these transactions. In the absence of the sale deeds, no oral evidence could be relied upon. The Reference Court had committed manifest error of law in relying on that evidence. But the fact that the lands are very near to the city and possessed of a potential value is not in dispute. Under these circumstances, we think that the appropriate course would be that the market value of the lands in respect of which Rs 5000 was awarded by the collector shall be determined @ Rs 8000 per acre and the lands for which Rs 3000 was awarded, would be valued @ Rs 6000 per acre. Similarly, in the case of second notification, the market value would be determined @ Rs 4000 per acre.

4. The award and decree of the Reference Court so modified to the above extent. The claimants are entitled to solatium and interest under Section 23(2) at the rate of 15% on the enhanced compensation and interest under Section 28 at the rate of 6% per annum from the date of taking possession till date of deposit of enhanced compensation.

5. The appeals are accordingly allowed. No costs.