

State of Bihar

Vs

Madheshwar Prasad

Civil Appeals Nos. 10915-16 of 1996

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

08.08.1996

JUDGMENT

1. Leave granted.

2. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was published on 16-9-1981 acquiring 3 acres 17 decimals of land for Suvarnarekha Project. The Land Acquisition Officer by his award dated 3-9-1985 granted compensation at Rs. 14,445 per acre. On reference, the Subordinate Judge enhanced it to Rs. 15,055 per acre. Both the State as well as the claimants filed the appeals in the High Court. The High Court in the impugned judgment in FAs Nos. 105 and 93 of 1987 dated 1-6-1993 enhanced the compensation to Rs. 45,000 per acre treating the acquired land in Don-I as cultivable land. It also granted Rs. 20,000 towards the well and statutory solatium and interest. Thus, these appeals by special leave.

3. The question that arises for consideration is whether the High Court was justified in enhancing the compensation to Rs. 45,000 per acre? The High Court has relied upon the sale deed Ext. 3/A dated 16-1-1981 pertaining to lead to an extent of 25 decimals of Don-II lands and 14 decimals of Don-I lands sold for consideration of Rs. 16,000. It also relied upon another sale deed of the year 1983 with value of Rs. 1,10,000 per decimal; in other words, Rs. 45,000 per acre. Unfortunately, neither the vendor nor the vendee has been examined in proof of passing of the consideration under the sale deed etc. Only a clerk of the Sub-Registrar was called as witness to prove the sale deeds which are the certified copies of the sale deeds. No doubt, under Section 51-A of the Act, the certified copy of the sale deed is admissible as evidence to get over the difficulties of the owner of the document would not produce the original title deeds. The clerk of the Sub-Registrar has proved that material as secondary evidence but other factors aliunde have to be established that the sale deed offers comparable value for determining the compensation at Rs. 45,000 per acre.

4. This Court had elaborately considered and laid this principle of law in a catena of decisions, the latest being *P. Ram Reddy v. Land Acquisition Officer Hyderabad Urban Development Authority* [(1995) 2 SCC 305]. Therefore, it needs no reiteration.

5. But, the fact is that the lands are situated very near to the national highway but 4 km away from Jamshedpur city. Under these circumstances, taking into consideration the facts and circumstances, we are of the view that the reasonable compensation would be Rs. 22,000 per acre. The claimants are not entitled to the value of the well i.e., Rs. 20,000 since the well was being used for irrigation of the land. For this reason, it cannot be separately valued as held by this Court in *O. Janardhan Reddy v. Spl. Dy. Collector* [(1994) 6 SCC 456].

6. The appeals are accordingly partly allowed. The market value of the lands is determined at Rs. 22,000 per acre with solatium and interest and also additional amount as per Section 23(2) @ 30 per cent on the enhanced compensation, interest under Section 28 for the first year at 9 per cent and thereafter at 15 per cent on the enhanced compensation from the date of taking possession till the date of deposit. They are also entitled to the additional amount at 12 per cent p.a. under Section 23(1-A) of the Act from the date of notification under Section 4(1) till the date of award or taking possession whichever is earlier. No costs.