

Gujarat Industrial Development Corpn.

Vs

Narottambhai Morarbhai and Another

Civil Appeals Nos. 11924 and 11934 of 1996

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

23.08.1996

ORDER

1. Delay condoned.

2. Leave granted.

3. Heard learned counsel on both sides.

4. Notification under Section 4(1) of the Land Acquisition Act, 1984 (for short "the Act") was last published on 10-4-1989 acquiring a large extent of land admeasuring 8,61,515 sq. mtrs. for public purpose, viz., industrial development; the land was at that time fit for cultivation but possessed of potential value and was situated in the outskirts of Surat. The Land Acquisition Officer in his award dated 15-4-1991 awarded compensation @ Rs 5 per sq. mtr. On reference, the Extra Assistant Judge by his award and decree dated 19-4-1994 enhanced the compensation to Rs 25 per sq. mtr. On appeal by both the claimants as well as the State, the High Court while dismissing the appeals of the State further enhanced the compensation to Rs 33 per sq. mtr. Thus these appeals by special leave.

5. Though the land was wasteland but being possessed of potential value was fir for building purposes and is situated in the outskirts of industrial city, the courts below were right in taking into consideration potential value of the land for determination of compensation. In awards for lands notified under Section 4(1) published between 15-12-1986 and 29-12-1989, compensation was awarded in the range of Rs 4.75 per sq. mtr. to Rs 7 per sq. mtr. In respect of land situated in Ichhapur to an extent of around 908 sq. mtrs., the market value was in the range of Rs 33 per sq. mtr. Relying upon that, the High Court enhanced the compensation. In view of the fact that the lands are situated at a distance of two kilometres from the acquired lands reliance on sale deed, Ex. 22 by the High Court was wholly unjustified in law. It is accordingly excluded. However, we agree that the lands are possessed of potential value, as found by all the courts below.

6. No prudent purchaser would purchase large extent of land on the basis of sale of a small extent of land in the open market. The acid test the court should always adopt in determining market value in the matter of compulsory acquisition would be to eschew feats of imagination, sit in the armchair of a prudent willing purchaser, it should consider whether the willing vendee would offer the rate at which the trial court proposes to determine the compensation. Taking these facts into consideration, we are of the view that the reasonable and adequate compensation for the lands would be at a net rate of Rs 22 per sq. mtr., after giving deduction of 1/3rd of the amount towards development charges. Therefore, the claimants would be entitled to the compensation @ Rs 22 per sq. mtr. They are also entitled to the statutory benefits on the enhanced compensation.

7. The appeals are accordingly allowed. No costs.