

Gheev Arghese Mathew and Others

Vs

State of Kerala and Another

Civil Appeals No. 4123 of 1991

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

17.09.1996

ORDER

1. Notification under Section 3(1) of the Kerala Land Acquisition Act, 1950 which is equivalent to Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) was published on 8-7-1980 acquiring an extent of 3.37 hectares of land for public purpose, namely, Greater Cochin Development Authority, for the purpose of the Site and Service Scheme at Alwaye. The Land Acquisition Officer in his award dated 19-3-1982 determined compensation at Rs 280 per cent as against Rs 2000 per cent claimed by the appellants. On reference, the civil court enhanced the compensation to Rs 1800 per cent by its award and decree dated 7-8-1984. On further appeal by the State, the High Court reduced the compensation to Rs 1000 per cent. Thus, these appeals by special leave.

2. Shri T.L.V. Iyer, learned Senior Counsel for the appellants, has contended that the lands under Exs. A-6 to A-8, of an extent ranging between 60 cents and 40 cents had been sold on 31-3-1976, 13-4-1976 and 21-4-1976 respectively at the rate of Rs 800 per cent. Exs. A-3 to A-5 would indicate steep rise in the value till the date of the notification. That was spoken of even by RW 2, the Executive Officer of the Panchayat. The acquired lands are abutting the two roads on either side. The developed area is situated near the acquired lands. These facts had been duly taken note of by the Reference Court in determining reference under Section 18. The High Court had not adverted to these relevant facts but considered Exs. A-6 to A-8 and held that the compensation at Rs 1000 would be the just compensation. Unless the findings of the Reference Court were found to be perverse, the High Court would not have interfered with the award of the Reference Court. Shri G. Vishwanatha Iyer, learned Senior Counsel for the respondent, placed reliance on a document, a letter addressed by the claimants themselves wherein they have agreed as on 15-10-1979 to sell the property to GCDA @ Rs 350 per cent. In view of this circumstance, it does not warrant more compensation than that has been awarded by the High Court.

3. Having regard to the respective contentions, the question that arises for consideration is what would be the reasonable compensation which the acquired lands are capable to secure? It is seen that Exs. A-3 to A-5 offer no comparable value. As stated by Shri Vishwanatha Iyer, they offer only an evidence of rise in the price. It is seen that lands under Exs. A-6 to A-8 also were purchased by common institution from the persons, brothers and sisters, which happened to be contiguous to their institution for better utilisation. Under those circumstances, they cannot be automatically offered as comparable sales for the lands in question. Admittedly, the lands are situated outside Always Municipal limits as on the date of notification. The High Court having considered the totality of the facts and circumstances reduced the compensation to Rs 1000 per cent as against Rs 2000 per cent as claimed by the appellants. It is more than 4 1/2 times than what was granted by the Land Acquisition Officer. The State did not file any appeal.

4. It is seen from the letter addressed by the appellants themselves on 15-10-1979, i.e. 10 months prior to the date of the notification, that they had assessed the compensation at Rs 350 per cent and offered to sell it at that rate. But for the fact that no agreement as contemplated under sub-section (2) of Section 11 has been executed, this admission stares at their face to claim any further enhancement in the compensation. It was not necessary for the High Court, before reversing the judgment of the Reference Court, to reach at a conclusion that the award and judgment of the Reference Court was perverse or wholly unsustainable. It is the mandatory duty of the Court to consider the entire evidence by applying the tests and principle of law as settled by this Court in assessing the compensation and to find out as to what would be the reasonable market value which the lands are capable to command in open market. In the estimate of the High Court, the reasonable compensation is Rs 1000 per cent which is three times more than that was offered by the claimants themselves. Under these circumstances, we do not think that these cases warrant interference to increase further compensation.

5. The appeals are dismissed, but without costs.