

Agricultural Produce Market Committee by its Secretary and Others

Vs

Land Acquisition Officer and Asstt. Commissioner and Another

Land Acquisition Officer

Vs

R.R. Hanmantanawar and Another

Civil Appeals No. 12883 of 1996 with Nos. 12884 of 1996

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

23.09.1996

ORDER

1. Leave granted.

2. We have heard learned counsel on both sides.

3. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was published on 14-4-1977 acquiring an extent of 3 acres 34 gunthas, 1 acre 2 gunthas for extension of Agricultural Produce Marketing Committee, Gadag in Dharwad District of Karnataka State. The Land Acquisition Officer (LAO) by his award dated 23-1-1982 determined the compensation at the rate of Re 0.76 per square foot. On reference, the Civil Judge, Gadag in his award dated 29-11-1982 enhanced the compensation to Rs 8.50 per square foot. On appeal under Section 54, in the impugned judgments dated 7-10-1992 and 4-11-1992 in MFA No. 837 of 1987 and MFA No. 1962 of 1987 respectively, the High Court of Karnataka reduced the compensation to Rs 7 per square foot. Thus, these appeals by special leave.

4. The Reference Court and the High Court relied on three sale instances of an extent of 38.4 square feet and 87.35 square feet which worked out at the rate of Rs 8 and Rs 19.98 per square foot; another sale deed of 78 square feet was worked out at the rate of Rs 31.25 per square foot. The question is whether the principle adopted by the courts below is correct in law? It is now settled legal position by a catena of decisions of this Court that the civil court has to sit in the armchair of a willing prudent purchaser and put a question to itself and answer whether such a willing prudent purchaser would offer to purchase in the open market at the rate the Court proposes to determine as compensation. When a total extent of 7 acres and odd is sought to be acquired no prudent purchaser in open market would offer to purchase the open land on square foot basis that too on the basis of a few small sale transactions and small extents would always fetch higher market value and the same will never command such price in respect of large extent. This Court had always rejected such instances as being not comparable sales. Therefore, the Civil Judge adopted feats of imagination and determined the compensation on the basis thereof. Unfortunately, the High Court also fell into the same grave error in determining the compensation on the same basis but deducted 1/3rd towards developmental charges. The principle adopted by the courts below is obviously erroneous and,

therefore, it cannot be sustained on that basis. However, when we asked the learned counsel for the parties to produce the evidence, the appellant has produced certain documents indicating therein that for the same purpose they appeared to have negotiated and purchased the properties from others at the rate of Rs 9000 per acre and a registered sale deed came to executed. They are produced for the first time. Shri Ranjit Kumar, learned counsel for the respondents, contended that the documents were not placed either in the Reference Court or in the High Court. He also says that location of the lands are different. Under these circumstances, we cannot decide for the first time the value of the land on the basis thereof without giving an opportunity to either of the parties for adducing evidence and without consideration thereof by the Reference Court. Accordingly, the awards and decrees of the Reference Court and that of the High Court stand set aside. The cases are remitted to the civil court for decision afresh after giving an opportunity to the parties to adduce evidence afresh and then decide the market value according to law. Pending these appeals since the respondents have withdrawn the amount as per the interim direction passed by this Court, the same may not be disturbed and the amount withdrawn will be adjusted when the award is passed by the Reference Court.

5. The appeals are accordingly disposed of. The judgment of the High Court to the extent of awarding additional amount under Section 23(1-A) of the Act stands set aside since the LAO had made his award before the Amendment Act came into force. No costs.