

Special Land Acquisition Officer, Kheda and Another

Vs

Vasudev Chandrashankar and Another

Civil Appeals Nos. 2852-77 of 1997

(K. Ramaswamy, D. P. Wadhwa JJ)

08.04.1997

ORDER

1. Delay condoned.

2. Leave granted.

3. Notification under Section 4(1) of the Land Acquisition Act was published on 14-8-1986 acquiring 12 hectares, 95 ares, 88 sq. m. of the land for the construction of Ahmedabad-Baroda Express Highway. The lands are situated in Village Marida, Taluk Nadiad, District Kheda. Land Acquisition Officer awarded compensation in his award dated 1-4-1987 at the rate of Rs. 250 per Aret. Dissatisfied therewith, the respondents sought for enhancement and reference was made under Section 18. The learned Assistant District Judge, by his award and decree dated 26-8-1992, enhanced the compensation to Rs. 2500 per are [Ed. : "Are is a unit of measurement of land in Gujarat equivalent to 250 sq. yards which was affirmed by the High Court in the impugned judgment dated 4-7-1995 in First Appeals Nos. 1125-1150 of 1995. Thus, these appeals by special leave.

4. We have heard the learned counsel on both sides. It is not necessary to go into all other documents. Suffice it to state that in another award of the Reference Court under Ex. 43, relating to the same village, the land was acquired by notification dated 3-5-1979. The Reference Court awarded compensation at the rate of Rs. 2100 per are. The appellants did not carry in appeal against the award. Thus, the award became final. The lands in question are also situated in the same village but on different survey numbers. Some of the claimants are the claimants in the earlier acquisition as well, as stated in the note appended to the synopsis filed before this Court. Therefore, due to the time-lag of 8 years, the Reference Court awarded compensation at the rate of Rs. 2500 per are.

5. The question, therefore, is whether the assessment of the compensation made by the Reference Court is vitiated by any error of principle of law warranting interference. It is now settled legal position that the award of the reference court relating to the same village of the similar land possessed of same quality of land and potential offers a comparable base for determination of the compensation. The reference court also noted in paras 18 and 19 the similarities of the lands under acquisition and that they were covered by Ex. 43. No doubt, the lands under acquisition are situated at the outskirts of the village. In the absence of any tangible material brought on record, as regards the distinctive features of differentiation between the quality of the lands situated, the land, subject-matter of Ex. 43 Ed. : "Are" is a unit of measurement of land in Gujarat equivalent to 250 sq. yards. and the lands under acquisition Ex. 48, it is difficult to find out whether the reference court has applied any wrong principle of law in determination of the compensation. In the light of the findings

recorded by the reference court a in paras 18 and 19, we think that, in the absence of any distinct material brought on record, even in the cross-examination of the witnesses, we cannot hazard to conclude that they offered no comparable value, in particular, when the award earlier has already attained finality. Under these circumstances, we think that there are no circumstances warranting interference.

6. The appeals are accordingly dismissed. No costs.