SUPREME COURT OF INDIA

Executive Director

Vs.

Sarat Chandra Bisoi

C.A.Nos.4932-4933 of 1994

(S. Rajendra Babu and R. C. Lahoti, JJ.)

11.05.2000

JUDGEMENT

R.C. LAHOTI, J.:-

1. In the early eighties large tracts of land were acquired in the State of Orissa by invoking the provisions of Land Acquisition Act, 1894 for establishing an aluminium smelter plant and other ancillary industries, civil township and supporting services. For the purpose of assessing the compensation to be awarded to several land-owners whose land was acquired an assessment report was called by the Land Acquisition Officer. The land consists of two kinds : (i) Sarad-I Dofasali, and (ii) Taila. During the course of hearing we were told by the learned counsel for the parties that in the local language a fertile or cultivated land is called Sarad and Sarad-I Dofasali land is one on which two crops can be taken. Taila is a barren land. The assessment report appointed the value of cultivable land at Rs. 12,500/- per acre and of barren land at Rs. 7,500/- per acre. On 27-5-1982 the Collector of District Dhenkanal, where the land is situated, addressed a letter to the Divisional Commissioner stating that the rates of land appointed by the assessment report were on the lower side and he recommended that Rs. 22,000/- and Rs. 12,500/- respectively per acre would be reasonable rates for fixing the compensation. The Land Acquisition Officer made an award accepting the rates suggested by the Collector. The dissatisfied landowners sought for a reference to

the Civil Court requesting for enhancement of the quantum of compensation.

2. The learned Sub-Judge after recording evidence arrived at a finding that a rate of Rs. 40,000/- per acre for Sarad land and a rate of Rs. 30,000/- per acre for Taila land would be reasonable rates at which the compensation should be awarded. A perusal of the judgment of the trial Court shows that so far as Sarad-I Dofasali land is concerned there was no evidence adduced by either party of contemporaneous transactions of land so as to determine the market rate prevailing in the area and therefore the Court applied the capitalisation method of determination of value based on the net annual yield of the land. The learned Trial Judge determined the annual net yield of the land at Rs. 2,000/- per acre and then by capitalising the same by applying a multiplier of 20, determined the value of the land at Rs. 40,000/- per acre. The finding as to the value of taila land was based on the inference drawn from evidence of transactions of sale of land adduced by the parties.

3. The High Court upheld the assessment of annual yield of Sarad land as found by the trial Court. However, the learned Single Judge was of the opinion that multiplier of 20 as applied by the trial Court was on the higher side and a multiplier of 16 only should have been adopted. Accordingly the value of Sarad land has been determined at Rs. 32,000/- per acre. As to Taila land the High Court formed an opinion that the rate of Rs. 30,000/- per acre determined by the trial Court could not be applied uniformally to all the land acquired. The High Court chose to adopt belting system by categorising the Taila land into three categories, namely,

(i) land near the national highway, (ii) land by the side of the gram panchayat road, and (iii) other such lands which are not road-side lands and appointed the value thereof respectively at Rs. 35,000/- , Rs. 30,000/- and Rs. 25,000/- per acre. Having so determined the rate of the land the High Court found that several pieces of land belonging to different landowners needed to be categorised and as satisfactory evidence in that regard was not available on the record, remanded the case to the trial Court for holding further enquiry so as to determine into which out of the three categories of Taila land the acquired pieces of land fell.

4. Feeling aggrieved by the judgment of the High Court, the National Aluminium Co. Ltd., for the benefit of which the land acquisition has taken place, have come up in appeal.

5. We have heard the learned counsel for the parties. Ordinarily, the most accepted and recognised method of appointing compensation for land acquisition is to find out the value of the land prevailing on the date of notification under Section 4 of the Land Acquisition Act which can best be enabled by tendering in evidence documentary evidence showing the price at which similar pieces of land have been bought and sold on and around the date of notification. Where there are no sales of comparable land the value has to be found out in some other way. One of the methods is to find out the annual income of the land which the owner has been deriving or is expected to derive from the use of the land and capitalise the same by adopting a multiplier. In Union of India v. Smt. Shanti

Devi, AIR 1983 SC 1190 this Court has said (at p. 1194 of AIR) :

"The capitalised value of a property is the amount of money whose annual interest at the highest prevailing interest at any given time will be its net annual income. The net annual income from a land is arrived at by deducting from the gross annual income all outgoings such as expenditure on cultivation, land revenue etc. The net return from landed property, generally speaking, reflects the prevalent rate of interest on safe money investments."

6. It was a case of very large tract of agricultural land having been acquired for Beas project. This Court held that in the facts and circumstances of that case 15 years purchase would be proper for determining the compensation and not 20 years purchase. Our attention has been invited to a Division Bench decision of the High Court of Orissa in Land Acquisition Zone Officer v. Damberudhar Pradhan, AIR 1991 Orissa 271 wherein on a conspectus of decided cases, the Division Bench has held that 16 years purchase was ideal to be adopted for fixing the market value of the land in Orissa. The High Court has adopted the same multiplier for this case. We do not find any fault therewith, in the facts and circumstances of the case and approve the same.

7. As to Taila land no fault can be found with the belting system adopted by the High Court so as to make a distinction between three categories of land which would obviously be having different market values. The submission of Shri Altaf Ahmad, the learned Additional Solicitor General is that the appellants were seriously aggrieved by the finding arrived at by the trial Court and substantially accepted by the High Court in the matter of appointing the sale price of the land. The learned Additional Solicitor General has carried this Court through the evidence adduced by the parties and available on the record of the trial Court. We agree with the learned ASG that the evidence adduced by the claimants and the finding arrived at by the trial Court suffer from a few infirmities. Firstly, the pieces of land forming subject-matter of acquisition are large pieces of land while the evidence adduced by the landowners consist of transactions relating to small pieces of land or plots. The value of small pieces of land is always on the higher side and large pieces of land may not fetch the price at the same rate. Secondly, very skeleton evidence has been adduced by the landowners. In some of the cases there are just one or two transactions placed on record. Thirdly, satisfactory evidence has not been adduced by showing the locations of the land forming subject-matter of transactions tendered in evidence so as to enable a finding being satisfactorily recorded that the transactions were of land comparable with the one under acquisition. In our opinion, in the facts and circumstances of the case it would suffice if the figures of the value arrived at by the High Court were discounted by 25% approximately. In other words, the rate at which the compensation should be calculated in respect of Taila land should be at the rate of Rs. 27,000/-, Rs. 22,500/- and Rs. 18,000/- respectively in place of Rs. 35,000/-, Rs. 30,000/- and Rs. 25,000/- per acre as appointed by the High Court. We make it clear that we have followed the abovesaid approach not so much by way of any principle but more by way of finding out a reasonable solution so as to give a quietus to this litigation. The lands were acquired in early eighties and by this time a period of about 20 years has elapsed. We are convinced of the need of avoiding a remand to record further evidence in this regard except to the extent considered unavoidable by the High Court. We are told that there are still large number of cases pending and awaiting finalisation of land acquisition compensation and they

all need to be disposed of expeditiously.

8. Directions made by trial Court in the matter of payment of solatium and interest were neither challenged before nor disturbed by the High Court. They would bind the parties.

9. The appeals are disposed of accordingly. No order as to the costs.

Order accordingly.