

# SUPREME COURT OF INDIA

Mahadev

Vs.

Asstt. Commissioner/Land Acquisition Officer

(N S Hegde and D Raju JJ.)

01.03.2002

## ORDER

1. Leave granted.
2. Heard counsel for the parties.
3. By a preliminary notification dated 18.8.1994, land belonging to 7 owners were acquired, out of which land measuring 1 acre 2 guntas situate in survey no. 221/A belonged to the appellant herein.
4. The land acquisition officer awarded Rs. 9,000/- per acre for all the lands. As against the said award of the land acquisition officer, all the seven owners including appellant preferred reference before the learned additional civil judge at Raichur. The said court after considering the material on record, enhanced the compensation to Rs. 74,000/- per acre.
5. Against the said award of the reference court, the respondent herein preferred appeals. Based on the valuation, six out of the seven appeals were filed before the district judge, Raichur and the appeal of the appellant being M.F.A. No. 3128/99 was preferred before the High Court.
6. The appeals filed by the respondent before the district judge, Raichur came to be dismissed on merits confirming the award made by the reference court. It is stated that the government accepted the said judgment and distributed the amounts due to those land owners.
7. When the appeal of the appellant came up before the High Court for hearing, it was pointed out to the High Court that the appeals of the respondent filed before the district judge have been dismissed confirming the award of the reference court and the respondent has accepted the said award and has also disbursed the amount in question. Therefore, the appeal before the High Court should be dismissed but the High Court refused to accept this contention and proceeded to examine the case on merit and having come to the conclusion that the award of the reference court was not justified on the material available on record, set

aside the said award and remanded the matter to the reference court reserving liberties to the parties to adduce fresh evidence.

8. The appellant, being aggrieved by the said judgment and order of the High Court is before us in this appeal.

9. Having heard the counsel for the parties and perused the records, we do not think the High Court was justified in interfering with the award of the reference court. The High Court ought to have seen that the acquiring authority, viz., the government has accepted the award in regard to similar lands, all of which were sought to be acquired under the same notification. The High Court has not come to the conclusion that the lands of the appellant are in any way inferior to the lands of those owners in whose favour the reference court award has become final. In such a situation, we find it difficult to agree with the view taken by the High Court mainly because of the fact that the acquiring authority itself has accepted the award of the reference court. The appeal before the High Court was not based on any question of law applicable to the peculiar facts of the appeal before it. It was also an appeal on facts on the basis of which the learned district judge confirmed the award. If the very same evidence was acceptable to the acquiring authority in regard to six other owners, we fail to understand why it should not be acceptable to the acquiring authority in regard to the appeal before us. At the cost of repetition, it may be stated that it is not the case of the acquiring authority that the land of the appellant is, in any way, inferior to that of the other lands acquired under the same notification.

10. Therefore, in our opinion, the High Court fell in error in trying to re-appreciate the material on record and coming to a conclusion different from that arrived at by the reference court, mainly because the acquiring authority has accepted finding based on the said evidence in regard to six other claimants.

11. For the reasons stated above, this appeal is allowed. The judgment and order of the High Court under appeal is set aside and that of the reference court is restored.