

SUPREME COURT OF INDIA

Maharunnisa

Vs.

Asst.Commr.& L.A.O,Bijapur

C.A.Nos.5069-5070 of 2009

(Tarun Chatterjee and R.M.Lodha JJ.)

04.08.2009

JUDGMENT

Tarun Chatterjee, J.

1. Leave granted.
2. Heard learned counsel for the parties and examined the impugned Judgment of the High Court as well as other materials on record.
3. The only question that needs to be decided is whether the appellants can be deprived of their rightful claim on technical ground for want of requisite Court fee without affording them opportunity to pay the deficit court fee within a reasonable time and deny the benefit of enhanced compensation.
4. In the impugned judgment, the High Court made the following directions:-

“For the reasons stated in the judgment passed in MFA Nos.3936, 3939 and 3943/2003 by this Court along with cross - objections disposed of by a common judgment dated 8.9.2006 though this Court has fixed the market value in the aforesaid cases at Rs.23/- per sq. ft. we fix the market value of the lands acquired in these cases at Rs.20/- per sq. ft. as the owners have restricted their claim only to that extent. The owners are entitled for other statutory benefits and interest payable under the provisions of the L.A. Act.”

5. From the above, it is clear that the amount of compensation was determined at Rs.23/- per sq. ft. by the High Court in the impugned Judgment but the appellants were directed to be paid at the rate of Rs.20/- per sq. ft. as the appellants had restricted their claim at the rate of Rs.20/- per sq. ft. in respect of the lands acquired by the respondent. In a recent decision of this Court in C.A.No.4163-4165 of 2009 decided on 8th of July, 2009, we have set aside the Judgment of the High Court and directed it to consider payment of compensation at the rate

determined by the High Court in that Judgment but not directed to be paid because of non payment of Court Fees by the claimants/appellants.

6. In view of the decision referred to hereinabove, we are, therefore, of the view that the impugned Judgment of the High Court must be set aside in part. As determined by the High Court in the impugned Judgment, we also fix the market value of the acquired land of the appellants at Rs. 23/- per Sq. ft.. However, the rest of the decision of the High Court is affirmed.

7. It is made clear that the enhanced compensation shall be directed to be paid to the appellants by the High Court if the appellants deposit the requisite Court fees on the aforesaid enhanced amount within four months from the date of supply of a copy of this order to it.

8. In the event, the requisite Court fee, as directed above, is not paid within the time specified hereinabove, the appeals shall stand dismissed.

9. For the reasons aforesaid, the impugned order is set aside to the extent indicated above and the matter is remitted back to the High Court for decision after giving hearing to the parties.

10. The appeals are allowed to the extent indicated above. There will be no order as to costs.