**SUPREME COURT OF INDIA**

Executive Engineer (Electrical), Karantaka Power Transmission Corporation Ltd.

Vs.

Asstt. Commissioner and Lao, Gadag

C.A. Nos. 1768 to 1775 of 2010

(R.V.Raveendran and K.S.Panicker Radhakrishnan JJ.)

11.02.2010

**JUDGMENT**

**R.V. Raveendran, J.**

1. Leave granted. Heard the parties. As the ranks vary, we will refer to the Appellant in the first batch of appeals (second Respondent in the second batch) as the 'Corporation'. The private Respondents in the first batch (the Appellants in the second batch) are referred to as the 'claimants'.

2. An extent of 19 acres 24 guntas of land within the municipal limits of Gadag-Betageri were acquired for establishing an electric sub-station. The preliminary notification under Section 4(1) of the Land Acquisition Act, 1894 ('Act' for short) was issued on 15.9.1994. The Land Acquisition Officer made an award dated 15.11.1996 offering compensation at the rate of `60,000/- per acre. The Reference Court, by its judgment and award dated 27.2.2001 increased the compensation to `3,79,260/-per acre. Aggrieved thereby, both the claimants and the Corporation filed appeals which were disposed of by a common judgment dated 16.3.2005. The Corporations' appeals were dismissed and the claimants' appeals were allowed and the compensation was increased from `3,79.260/- to `6,79,935/- per acre.

3. The claimants had adduced four pieces of evidence in support of their claim for increase in compensation. We will refer to them briefly.

> "3.1) The first was a sale deed dated 27.7.1994 (Ex. P-5) in regard to a small plot of land measuring 1225 sq.feet situated at a distance of about 100 feet from the acquired lands. The sale price under Ex.P5 was `16,000/- which worked out to `5,68,890 per acre.
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> 3.2) The second and third were two sale deeds dated 19.9.1991 (Ex. P-16) and 21.10.1991 (Ex. P-16A). They related to sale of an extent of one gunta (1089 sq.ft) of land for `30,000/- and 128.1 sq.yards for a price of `49,000/-, which works to

`12,00,000/- per acre and `18,51,366/- per acre respectively. Both the plots were non-agricultural residential plots abutting a main road. The first plot was near the Railway ground and the second was near the Health Camp, within the area of Gadag-Betageri Municipality. According to the claimants, the said lands were at a distance of half a kilometre and one kilometer respectively from the acquired lands. According to the Corporation, the said plots were at a distance of about 3 to 4 kilometres. Both the plots were non-agricultural residential plots abutting a main road.

3.3) The fourth was the Reference Court judgment (Ex.P-17) and High Court Judgment (Ex.P-18) in regard to acquisition of a land at a distance of about less than one kilometre, under preliminary notification dated 6.9.1979. The said acquisition was for formation of a Road by the Gadag-Betgeri Municipal Council. The compensation awarded was ` 30/- per sq.ft. which works out to `13,06,800/- per acre."

4. The Reference Court excluded the two sale deeds dated 19.9.1991 and 21.10.1991 (Exhibits P-16 and 16A) on the ground that the said sales were not proximate in time and related to the transactions which had taken place about three years prior to acquisition. It rejected Exhibits P-17 and P-18, as they related to an acquisition of the year 1979, more than one and a half decades prior to the acquisition under consideration. The Reference Court rejected Ex-16, P-16A, P-17 and P-18 on another ground that they were situated far away and were not therefore, comparable lands. They were all non-agricultural lands. Consequently, the Reference Court relied on Ex.P-5 which was a sale deed dated 27.7.1994 in regard to a plot virtually adjoining the acquired land, hardly two months prior to the acquisition. The sale price under Ex.P-5 showed the price per acre as `5,68,890/-. As the acquisition was of a large tract of land and the sale deed dated 27.7.1994 related to a very small plot of land, the Reference Court deducted one-third of the price towards development cost and arrived at `3,79,260/- per acre as the compensation..

5. On the other hand, the High Court took into account not only the sale transaction under Ex. P-5 dated 27.7.1994, but also the sale transactions under Exs. P-16 and 16A dated 19.1.1991 and 21.10.1991. It was of the view that insofar as the sale deeds of 1991 were concerned, keeping in view the gradual rise in prices, the prices disclosed by the said sale deeds should be increased by 5% per annum for a period of three years to arrive at the market value for the year 1994. It was also of the view that 50% should be deducted towards development cost. On so doing, it arrived at the market value disclosed by Exs. P-5, 16 and 16A as `2,84,440/-, `6,90,000/- and `10,65,360/-. By taking the average of the values projected by the said three sale deeds, it arrived at the market value at `6,79,935/-per acre.

6. The said judgment is under challenge in these appeals. The Corporation is aggrieved by the increase in compensation awarded by the Reference Court and the High Court. It contends that the High Court was not justified in taking into account Exs. P-16 and 16A which related to 1991 sales in respect of far away plots. The claimants contend that the High Court was justified in taking into account the sale deeds dated 19.9.1991 and 21.10.1991. According to them the deduction for development cost ought to have been only 33% and not

50% adopted by the High Court. They also contend that the High Court and the Reference Court committed an error in not awarding interest under Section 28 of the Act.

7. Therefore the question that arises in these appeals is whether only Ex. P-5 dated 27.7.1994 should be taken into account or whether Exs. P-16 and 16A dated 19.9.1991 and 21.10.1991 should also be taken into account. The next question is whether the determination of market value requires to be interfered with.

8. Exs.P-17 and P-18 relate to an acquisition of the year 1979, more than one and a half decades prior to the acquisition in question and cannot be of any relevance to determine the market value of a land acquired in 1994 [See *Sardar Jogendra Singh v. State of Uttar Pradesh*[1]]. Exs. P-17 and P-18 were therefore rightly excluded both by the Reference Court and by the High Court.

9. As far as Exs. P-16 and 16-A dated 19.9.1991 and 21.10.1991 are concerned; it is no doubt true that they cannot be rejected merely because they are three years old. If other satisfactory evidence was not available and if they were in respect of similar land situated nearby, they could have been considered. But when a sale transaction relating to a nearby land, of the year 1994 itself, proximate in time to the date of preliminary notification, is available, there is no need or justification to refer to or rely upon sales which took place three years ago and that too in regard to lands which are far away from the acquired land. Even though the claimants stated that the lands covered by Exs.P16 and P16A are at a distance of only half a kilometre and one kilometre from the acquired lands, the Reference Court has recorded a finding that they are at a distance of 3 to 4 km. In towns and urban areas, it is common knowledge that even half a km. to one km. distance would make considerable difference in regard to price of such land, if the relied upon sale deeds relate to lands nearer to the town or city. We are therefore of the considered view that when the sale transaction (Ex.P-5 dated 27.7.1994) relating to a nearby land was available, there was no justification for the High Court to have relied upon sale deeds dated 19.9.1991 and 21.10.1991 relating to far away lands which were more advantageously situated. In fact while the Reference Court gave cogent reasons for excluding Ex.P-16 and Ex, P-16A from consideration, the High Court assigned no reasons for taking them into account. We, therefore exclude them from consideration as was done by the Reference Court.

10. Learned Counsel for the claimants next contended that though the sale price under the sale deed dated 27.7.1994 (Ex. P-5) was `16,000/-, the document showed that stamp duty had been paid for a value of `31,000/-. He contended that this showed that the document was under-valued and the Sub-Registrar had required payment of stamp duty on the guideline market value of `31,000/-; and that as the stamp duty was collected on a sale price of `31,000/-, that should be taken as the marked price, which works out to `27,555/- per gunta or `11,02,200/- per acre. The said contention cannot be accepted. When a sale transaction is relied upon by exhibiting the sale deed relating to the transaction, the consideration mentioned therein cannot be ignored, nor can a higher sale price inferred merely because stamp duty has been paid on a higher value. Stamp duty with reference to a higher value may

be paid for a variety of reasons. For example, if a general guideline price had been fixed for a particular locality, and because the plot fell in such a locality, the sub-Registrar might have insisted upon payment of stamp duty on a higher value, even though the sale price may be the true value. In the absence of any evidence that the sale price of `16,000/- mentioned in the sale deed was less than the actual market value and in the absence of proof of under-valuation or proof that the sale was a distress sale, it is not possible to ignore the sale price mentioned in the sale deed.

11. Learned Counsel for the claimants lastly contended that even the deduction of one-third of the value towards development cost was excessive as the land was situated in a developed urban area within the municipal limits though the lands were still agricultural in character. It is an admitted fact that the acquired lands were within the municipal limits of Gadag-Betageri and abutted Sambarpur Road. It is also admitted that the bus stand, the market and educational institutions were at an easily accessible distance. The lands formed a contiguous block and were all level lands. Having regard to these special features, we are of the view that the deduction towards development cost should have been only 25% and not one-third as adopted by the Reference Court. Therefore, by adopting a cut of 25% towards development cost, we arrive at the market value as `4,26,670/- per acre.

12. The Reference Court has awarded the additional amount under Section 23(1A) and solatium under Section 23(2) but did not award interest under Section 28 of the Act. But the High Court has awarded all the statutory benefits, that is 12% additional amount under Section 23(1A), solatium of 30% under Section 23(2) and interest @ 9% per annum for a period of one year from the date of taking possession and 15% per annum thereafter. It does not call for interference.

13. We, therefore, allow the appeals of the Corporation and reduce the compensation to `4,26,670/- per acre (instead of `6,79,935/- per acre awarded by the High Court) with all statutory benefits. Consequently, appeals filed by the land owners are dismissed. Parties to bear their respective costs.

[1]*2008 (17) SCC 133*