

SUPREME COURT OF INDIA

Stanes Higher Secondary School

Vs.

Special Tahsildar, Tamil Nadu

C.A.No.321 of 2002

(Dalveer Bhandari and Dr.M.K.Sharma JJ.)

09.03.2010

JUDGEMENT

Dalveer Bhandari, J.

1. We have heard learned counsel for the parties.
2. The brief facts which are necessary to dispose of this appeal are recapitulated as under:-
3. The land belonging to the appellant-School measuring 1 acre 7229 sq.ft. was acquired by the respondent by a notification under Section 4 (1) of the Land Acquisition Act, 1894, [for short, 'the Act']. The land which was being used as the play ground of the school children was acquired for the purpose of expansion of a road for Ladies' Super Market. The possession of the land was taken on 21st November, 1975. The lands are situated in the heart of Coimbatore City and very close to the National Highway No. 47.
4. The Land Acquisition Officer, by his award dated 31st December, 1981 fixed compensation at the rate of Rs.4/- per sq.ft. and awarded a sum of Rs.2,91,258/- towards cost of the lands and 15% solatium.
5. The appellant-School aggrieved by the said award, made a Reference to the Sub-Court, Coimbatore under Section 18 of the Act. The appellant claimed compensation at the rate of Rs.30/- per sq.ft. The Sub-Court, Coimbatore, however, by a comprehensive judgment fixed the compensation at the rate of Rs.20/- per sq.ft. along with solatium of 15 per cent. The Court also awarded interest at the rate of 4 per cent per annum from the date the possession was taken till payment was made.
6. The respondent herein preferred an appeal being A.S. No. 218 of 1992 before the High Court of Madras. The High Court allowed the appeal and modified the decree reducing the compensation to Rs.10/- per sq.ft. Further, the High Court fixed the interest at the rate of 9 per cent and solatium at 30 per cent of the market value. The appellant-School, aggrieved by

the impugned judgment of the Madras High Court, preferred this appeal by way of special leave.

7. It may be pertinent to mention that Section 25 of the Act was amended with effect from 24th September, 1984.

8. The un-amended Section 25, as it existed prior to 24th September, 1984, stated as under:
"Section 25. Rules as to amount of compensation:

“(1) When the applicant has made a claim to compensation, pursuant to any notice given under Section 9, the amount awarded to him by the court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under Section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the court shall not be less than, and may exceed, the amount awarded by the Collector.”

The amended Section 25 reads as under:

"Section 25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector.

The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11.”

9. This Court had an occasion to examine the controversy of almost similar nature in *Krishi Utpadan Mandi Samiti etc. v. Kanhaiya Lal & Others*¹. In this case, this Court relying on its earlier judgment in *Gobardhan Mahto v. State of Bihar* (1979) 4 SCC 330, observed as under:

“Section 25 of the Land Acquisition Act, 1894 before its substitution by Act 68 of 1984, mandated the court not to award compensation exceeding the amount so claimed by the landowners and not to be less than the amount awarded by the Collector.

This very clearly limits awarding of compensation within the amount claimed. On the facts of the present case it is not in dispute that the award itself was given on 27-12-1977 and even proceeding pursuant to referring order, was concluded on 28-2-1981, i.e., much prior to the aforesaid amending Act. Thus, on the facts of this case it is

unamended Section 25 to be applicable and not the amended section. In view of this the peripheral limitation on the court awarding the compensation, would equally apply to the High Court exercising its power as the first appellate court.”

10. A three-judge bench of this Court in *Land Acquisition Officer-cum-DSWO, A.P. v. B.V. Reddy and Sons*², has clearly laid down in para 6, which reads as under:

".....it is a well-settled principle of construction that a substantive provision cannot be retrospective in nature unless the provision itself indicates the same. The amended provision of Section 25 nowhere indicates that the same would have any retrospective effect. Consequently, therefore, it would apply to all acquisitions made subsequent to 24-9-1984, the date on which Act 68 of 1984 came into force."

11. In the instant case, admittedly, both the notification and the award were issued prior to 24th September, 1984. The parties are governed by an unamended provision of law.

Therefore, we do not find any infirmity in the impugned judgment of the High Court.

12. In the present appeal, the land meant for the play ground located in the heart of Coimbatore city and very close to National Highway no. 47 was acquired by the respondent. The amount of compensation has already been paid to the appellant-School. Therefore, in the peculiar facts and circumstances of the case, the judgment of the High Court is modified and in the interest of justice, we deem it appropriate to direct the respondent not to recover the amount of compensation already paid to the appellant-School.

13. The civil appeal is, accordingly, disposed of. In the facts and circumstances of the case, we direct the parties to bear their own costs.

¹(2000) 7 SCC 756

²(2002) 3 SCC 463