

State Of M.P.

v.

Kashiram(Dead) By Lr

(Supreme Court Of India)

HON'BLE MR. JUSTICE R.V. RAVEENDRAN HON'BLE MR. JUSTICE A.K. PATNAIK

State Of M.P. v. Kashiram(Dead) By Lr

Civil Appeal No. 9915 Of 2010 [Special Leave Petition (Civil) No. 4785/2009] With Civil Appeal No. 9916 Of 2010 [@ Slp(C) No. 4786 Of 2009] Civil Appeal No. 9917 Of 2010 [@ Slp(C) No. 4787 Of 2009] Civil Appeal No. 9918 Of 2010 [@ Slp(C) No. 4788 Of 2009] Civil Appeal No. 9919 Of 2010 [@ Slp(C) No. 4789 Of 2009] Civil Appeal No. 9920 Of 2010 [@ Slp(C) No. 4790 Of 2009] Civil Appeal No. 9921 Of 2010 [@ Slp(C) No. 4792 Of 2009] Civil Appeal No. 9922 Of 2010 [@ Slp(C) No. 4793 Of 2009] Civil Appeal No. 9923 Of 2010 | 23-11-2010

1. Leave granted.

2. These appeals relate to acquisition of lands in six villages namely, Dakachya, Peerkaradia, Raukhedi, Budhi Barlai, Arjun Badoda and Alipur, for the purpose of the Indore Dewas Four Lane Road. Acquisition proceedings were initiated under preliminary notification dated 16.6.1989 followed by other notifications dated 25.6.1989, 2.12.1989 and 22.12.1989 in respect of an area of 47.647 hectares.

3. It is stated that the Land Acquisition Officer, by several awards, offered compensation of Rs.79,500/- per hectare for irrigated lands, Rs.53,000/- per hectare for non-irrigated lands and Rs.40,000/- per hectare for padat (barren) land. On reference, compensation was determined at the following rates by the Reference Court under several judgments:

Name of village Rate per hectare

Peerkaradia Rs.3,45,800/- (Category I)

Rs.1,50,000/- (Category II)

Budhi Barlai Rs.1,14,000/-

Dakachaya Rs.1,50,000/-

Raukhedi Rs.1,60,550/-

Arjun Badoda Rs.1,23,500/-

Alipur Rs.75,000/-

4. Feeling aggrieved, the land owners filed appeals before the High Court. It is stated that the land-owners in their appeals, filed applications for amendment of their claims and the High Court allowed the applications and permitting them to increase their claims from around Rs.4 lakhs per hectare to Rs.6.17 lakhs per hectare. The High Court, by the impugned common judgment dated 26.2.2008, allowed the appeals by the land-owners and increased the compensation to Rupees Six Lakhs per hectare uniformly for the acquiring lands in all these villages. The said judgment is under challenge in these appeals by special leave.

5. The High Court held that the acquired lands though situated in six villages, were contiguous to each other and were all in one area of Indore District; that the acquisitions were all for the same public purpose; and that therefore the same rate of compensation ought to be awarded for all the acquired lands. The High Court determined the market value in regard to all acquired lands in six villages with reference to a sale deed dated 9.3.1989 (marked as Ex.P2 = D1) relating to 1506 sq.ft. of land for Rs.10,000/- in the village Budhi Barlai. The High Court worked out the rate per acre from the said sale deed as Rs.7,14,285/- per hectare. The High Court made a deduction of Rs.1,14,285/-per hectare as the plot sold was a small bit and arrived at the lump sum figure of Rupees Six Lakhs per hectare as the market value.

6. On a perusal of the judgment of the High Court, we find the following glaring infirmities:

(i) The lands acquired were situated in different villages. They did not form a contiguous compact block. On the other hand, the acquired lands were situated one after another, as the acquisitions were for laying a road. The lands acquired formed a thin strip spread over several villages. As a result, the lands acquired in the village at one end and the lands acquired in another village at the other end, were far away from each other and could not be considered as contiguous lands with the same value. This is evident from the judgments of the Reference Court which awarded compensation at rates ranging from as little as Rs.75,000/- per hectare to Rs.3,45,800/- per hectare, depending upon their respective market value. There was no evidence that all the acquired lands were similarly situated or of similar value or had similar potential for development. Though the acquisitions related to six villages and though the Reference Court had determined different market values for lands in different villages, the High Court, without any acceptable or valid reason, has determined a uniform high rate of

Rupees Six Lakhs per hectare. The market value with reference to Ex.P2 even if acceptable can obviously apply only to the nearby lands in that village and cannot be applied to six villages.

(ii) Most of the acquired lands were agricultural lands. Some lands were small plots with structures. The High Court has treated both agricultural lands and the non-agricultural plots with structures on the same footing and awarded the same compensation to all the acquired lands which is obviously erroneous.

(iii) The High Court has awarded compensation at a uniform rate of Rupees six lakhs per hectare based on a single sale transaction dated 9.3.1989 relating to a residential plot of 1506 sq. feet which was sold for Rs.10,000/- (which works out to Rs.7,14,285/- per hectare). It is now well settled that if the sale deed relating to a small developed plot of land is to be the basis for determining the market value of large undeveloped areas, appropriate deductions will have to be made towards development cost which may vary from 20% to 75% of the price of the developed plot (that is upto 40% of the land area for roads, drains, parks, civic amenities etc., and upto 35% towards the actual cost of development). The percentage of deduction will depend upon the situation of the lands, the nature of development, etc. (See *Lal Chand v. Union of India - 2009 (15) SCC 769* at paras 13 to 22).

The court cannot arbitrarily deduct a small lump sum from the value of a small developed plot, to arrive at the value of an undeveloped rural lands. The deduction that is made by the High Court is hardly 15% to 16% of the value of the small developed plot. Having regard to the situation of the lands in question and other circumstances, it would appear that the deduction should be in the range of about 40% to 50% from the value of the small and developed plot. Of course, the above percentage and the percentage of deduction require to be determined after consideration of the relevant evidence. The High Court has not even referred to this aspect nor has it made an appropriate deduction towards the development.

(iv) Most of the land owners had claimed only about Rupees Four Lakhs per hectare (except some land owners in Peer Karadia and Rau Khedi who appear to have claimed Rupees Five Lakhs per hectare). They were permitted to amend the claim to Rs.6,17,000/- without proper consideration of the question as to such amendment was warranted.

(v) The parties had exhibited sale deeds relating to Peer Karadia and Dakachya. The appellants had also relied upon two sale deeds relating to sale of one acre of land each in Budhi Barlai (Ex D4 and D5 dated 14.12.1989) showing that the market value was only around Rs.38000/- to Rs.42000/- per acre. These were not considered though referred by the High Court.

7. We are therefore of the view that the judgment of the High Court cannot be sustained. In the absence of any classification with reference to villages, nature of lands, and consideration of evidence with reference to the lands in each village, the common judgment of the High Court awarding a uniform high rate cannot be sustained.

8. We, therefore, allow these appeals, set aside the common judgment dated 26.2.2008 of the Madhya Pradesh High Court under challenge in these appeals and remand the matter to the High Court for assessment of the market value in accordance with law keeping in view the above observations. We hereby make it clear that nothing stated above shall be construed as expression of any final opinion in regard to the actual market value and the High Court will have to assess the same with reference to the evidence.

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