

**SUPREME COURT OF INDIA**

Salaha Begaum

Vs.

Special Land Acquisition Officer

C.A.No.6414 of 2012

(G.S.Singhvi and Sudhansu Jyoti Mukhopadhaya JJ.)

03.12.2012

**JUDGMENT**

**G. S. SINGHVI, J.**

1. Dissatisfied with the enhancement granted by the Karnataka High Court in the amount of compensation determined by the Reference Court, the appellants have preferred this appeal.
2. The appellants' land comprised in Survey No.39/MF (3 acres 6 guntas), Survey No.39/E (1 acre 23 guntas) and Survey No.39/MJI (9 acres 15 guntas) situated in Srirampuram village, Mysore Taluk was acquired by the State Government for construction of Varuna Nalla. For this purpose, notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was issued on 9.3.1995. After finalization of the acquisition proceedings, the Special Land Acquisition Officer passed award dated 28.11.1995 and fixed market value of the acquired land at the rate of Rs.65,000/- per acre. On a reference made by the Collector under Section 18 of the Act, the Reference Court determined the amount of compensation at the rate of Rs.1,00,000/- per acre.
3. The appellants filed appeals under Section 54 of the Act and pleaded that they were entitled to compensation at the rate of Rs.2,20,000/- per acre. The Division Bench of the High Court partly allowed the appeals and enhanced the amount of compensation from Rs.1,00,000/- to Rs.1,70,000/- per acre.

4. Learned senior counsel for the appellants relied upon judgment dated 15.9.2003 of another Division Bench of the High Court in MFA No.2435/2000 Sri Ugregowda v. Special Land Acquisition Officer, registered sale deed dated 7.1.1993 (Exhibit P-12) and argued that the High Court committed serious error by not awarding compensation to the appellants at the rate of Rs.2,20,000/- per acre with benefit of escalation in the price of land. Learned senior counsel pointed out that the land of Sri Ugregowda was situated in the same village and was acquired for the same purpose i.e. construction of Varuna Nalla and argued that once the High Court accepted his claim for higher compensation, there could be no justification to deny similar treatment to the appellants. He further pointed out that the land belonging to Shri Ugregowda was acquired vide notification dated 20.1.1993 and that of the appellants' was acquired vide notification dated 9.3.1995 and argued that his clients are entitled to the benefit of 12% increase per annum.

5. Learned counsel for the respondents supported the impugned judgment and argued that the High Court did not commit any error by fixing market value of the appellants' land at the rate of Rs.1,70,000/- per acre.

6. We have considered the respective arguments. Although, the lands belonging to the appellants and Sri Ugregowda were acquired by two different notifications, the purpose of acquisition was the same, i.e., construction of Varuna Nalla. It is not in dispute that in the appeal filed by Sri Ugregowda under Section 54 of the Act, the High Court relied upon sale deed dated 7.1.1993 and held that he was entitled to compensation at the rate of Rs.2,20,000/- per acre. However, as Sri Ugregowda had confined his claim for compensation to Rs.2,00,000/- per acre, the High Court did not award compensation at the rate of Rs.2,20,000/- per acre.

7. A careful reading of the impugned judgment shows that the Division Bench of the High Court did take notice of sale deed dated 7.1.1993 but treated the sale consideration for three acres land as Rs.5,10,000/- by deducting Rs.1,50,000/- towards value of farmhouse and electric connection. By doing so, the High Court committed serious error because in the case of Sri Ugregowda no such deduction was made and sale deed dated 7.1.1993 was relied upon for holding that he was entitled to compensation at the rate of Rs.2,20,000/- per acre. In our view, once the High Court accepted sale deed dated 7.1.1993 as the touchstone for determination of the compensation payable for identically situated land, there could be no justification for awarding less compensation to the appellants.

8. Another error committed by the High Court is that it has not given the benefit of principle of escalation of price to the appellants. This Court has repeatedly held that the exercise undertaken for fixing market value and determination of compensation payable to the landowner should necessarily involve consideration of escalation in land prices – *Ranjit Singh v. UT of Chandigarh* (1992) 4 SCC 659, *Krishi Utpadan Mandi Samiti v. Bipin Kumar* (2004) 2 SCC 283, *Land Acquisition Officer v. Ramanjulu* (2005) 9 SCC 594, *Sardar Jogendra Singh v. State of U.P.* (2008) 17 SCC 133 and *Revenue Divisional Officer-cum-LAO v. Sk. Azam Saheb* (2009) 4 SCC 395.

9. In *ONGC Ltd. v. Rameshbhai Jivanbhai Patel* (2008) 14 SCC 745, the Court held as under:

“Primarily, the increase in land prices depends on four factors: situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas, unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties.

On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore, if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is, about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on sale transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the 'rate' of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase."

10. In view of the above discussion, we hold that the appellants are entitled to compensation at the rate of Rs.2,20,000/- per acre with benefit of 10% increase for the time gap of two years between the notification issued for the acquisition of Shri Ugregowda' s land and the notification issued for the acquisition of their land.

11. In the result, the appeal is allowed, the impugned judgment is set aside and it is declared that the appellants are entitled to compensation at the rate of Rs.2,64,000/- per acre. The competent authority is directed to pay to the appellants the enhanced compensation together with other statutory benefits.

12. With a view to ensure that the appellants are not fleeced by the middlemen, we direct the respondent to depute an officer of the rank of Tahsildar who shall contact the appellants and ask them to open bank accounts, if they already do not have such accounts. This shall be done within a period of 8 weeks from today. Thereafter, the concerned official shall inform the respondent about the bank account nos. of the appellants. Within next 8 weeks, the respondent shall deposit the amount in the bank account of the appellants in the form of a demand draft got prepared from a nationalized bank.