

SUPREME COURT OF INDIA

Madhukanta M.Chinchani & Ors.

Vs.

Special Land Acquisition Officer & Anr.

C.A.No.3673 of 2007

(Kurian Joseph and R.F.Nariman,JJ.)

21.01.2016

JUDGMENT

Kurian Joseph, J.

1. The appellants are aggrieved since they are not granted just and fair land value in respect of the land acquired from them. In the nature of the order we propose to pass, we do not think it necessary to go in detail to the factual matrix, which to the extent relevant, is available at paragraph 4 of the impugned Judgment, which reads as under :-

"In the present case the land under acquisition is from the same cluster of lands which was the subject matter of the same award. The Land Acquisition Officer in his award referred to the fact that the Appellants' land has frontage on Mahatma Phule Road and, therefore, valued the land of the appellants at the rate of Rs. 60 per sq. mt. as against Rs. 40 and Rs. 45 for the lands which are the subject matter of LAR Nos. 44 and 46 of 1978. Ordinarily the appellants would be entitled to compensation at the same rate which was awarded by the learned single Judge in LAR Nos. 44 and 46 of 1978. However, it is seen from the record that the land of the appellants is much larger compared to the properties involved in the LAR Nos. 44 and 46 of 1978. The area of the Appellants' land is 16,631 sq. mts. as against the area of 7598 sq. mts. in LAR No. 44 of 1978 and 5440 sq. meters in LAR No. 46 of 1978. Having considered the submissions made by the learned counsel for parties we feel that deduction of 15% would be appropriate and the price of Rs. 110 per sq. meter can be safely estimated as market price of the land under acquisition. The appellants thus would be entitled to enhanced compensation of Rs. 50 over and above the compensation awarded by the SLAO along with all the statutory benefits."

2. There is no dispute that the Land Acquisition Officer had fixed only Rs. 40 and 45 for the lands covered by LAR Nos. 44 and 46 of 1978, for which the High Court has granted Rs. 130 per sq. meter. There is also no dispute that those are adjoining lands. It is also an admitted fact that the land of the appellants has road frontage whereas that lands in LAR Nos. 44 and 46 of 1978 does not have that advantage. The only reason stated by the High Court in the

impugned order for not granting Rs.130 sq.meters is that the land of the appellants is 16631.95 sq. meters, but it has to be seen that the land covered by LAR Nos. 44 and 46 of 1978 which are adjoining to that of the appellants are not very small in size. They are having an area of 7598 sq. meters and 5440 sq. meters. The advantage of road frontage has missed the notice of the court.

3. Hence, we are of the view that on the principle of parity, the High Court should have granted at least Rs. 130/- per sq. meter, though the appellants claimed Rs. 175/- per sq. meter before the Reference Court and Rs. 300/- per sq. meter before the High Court based on the report of the valuer of the appellants.

4. Therefore, this appeal is partly allowed. The appellants shall be entitled to the land value at the rate of Rs. 130 per sq.meter with all other statutory benefits. There shall be no order as to costs.