

THE SPECIAL LAND ACQUISITION OFFICER, BANGALORE

v.

V.T. VELU AND ORS.

JANUARY 16, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Land Acquisition Act, 1894/Requisitioning and Acquisition of Immovable Property Act, 1952 :*

*Sections 4(1), 11, 18/7.8—Award of compensation—Determination of compensation on sq. ft basis—Held : Wrong principle of law especially when large extents of lands sought to be acquired for public purposes—Deduction towards developmental charges—Not to be refused merely because there is a connecting road to the lands—Also taking into account the potentiality of land for building purposes, compensation enhanced.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2526-27 of 1996.

From the Judgment and Order dated 27.8.91 of the Karnataka High Court in M.F.A. No. 111 to 112 of 1983.

M. Veerappa for the appellant.

V.A. Bobde and K. J. John for the Respondent.

A.D.N. Rao for the Respondent No. 5.

The following Order of the Court was delivered :

Leave granted.

Notification under Section 4(1) of the Land Acquisition Act 1 of 1894 (for short, 'the Act') was published in the State Gazette on April 27, 1972 acquiring 1 acre 6 guntas of land for defence purpose. It is not in dispute that the property was requisitioned under Section 8 of the Acquisition and Requisition of Immovable Property Act 1952 (for short, 'the Property Act') on 29.3.1965 and possession thereof was taken. Subsequently, under Section 7 of the Property Act, for determination of the rentals payable to the

requisitioned property, market value of the property was fixed at Rs. 4 per sq. ft. and rents were paid on that basis. After notification under Section 4(1) was published, the Collector made his award on 31.1.1976 under Section 11 of the Act determining the compensation at Rs. 24,250 per acre. Dissatisfied there with, on reference under Section 18, the Court enhanced the compensation by its award and decree made under Section 26 of the Act on June 30, 1982 at Rs. 75,000 per acre. On appeal by the State as well as by the claimants, the High Court in the impugned judgment dated 27.8.1991 made in M.F.A. Nos. 111 and 112 of 1983 dismissed the State appeal and enhanced the compensation in the claimants' appeal to Rs. 5 per sq. ft.

The High Court proceeded on the finding that the lands were well developed as on the date of the requisition as well as on the date of publishing the notification under Section 4(1) of the Act. When the rentals under Section 7 of the Property Act was determined at the rate of Rs. 4 per sq. ft., the determination of the compensation, after 8 years in 1972 at the rate of 5 per sq. ft. would be just, fair and adequate. As regards the deduction of 53% towards developmental charges, the High Court found that since the lands were situated already in developed area, deduction was not warranted. Therefore, no deduction was made. Thus these appeals by special leave and the cross objections filed by the respondents.

Shri Veerappa, the learned counsel for the State, contended that the view of the High Court is wholly unreasonable. As on the date of requisition, the lands were only agricultural lands and that after the establishment of the Defence Establishment, the lands were bound to be developed and that will not be a relevant circumstance in enhancing the compensation. The lands are yet to be required for development and that, therefore, deduction of 53% as held by this Court would be proper deduction and that the High Court was not right in holding that the compensation at 5 per sq. ft. and without deduction, is arbitrary. On the other hand, it has been contended by Shri Bobde, the learned senior counsel for the claimants/respondents that there is a steep gradual increase in prices every year; when the Court had determined the compensation at Rs. 4 per sq. ft., as early as in 1965, taking gradual rise in prices the claimants are entitled at least to Rs. 10 per sq. ft. It is further contended that the High Court has determined the value at Rs. 5 per sq. ft. and the finding of the High Court is not unreasonable or arbitrary. It is also contended that since the lands have already been

developed, there is no need for deduction of 1/3rd or 53% as contended for and that, therefore, the High Court was right in its conclusion that the lands command market value at Rs. 5 per sq. ft. without deduction.

Having given our consideration to the respective contentions, the question that arises for consideration is : what would be the reasonable compensation for the acquired lands? It is true that rentals were determined for the lands requisitioned as on 29.3.1965 at Rs. 4 per sq. ft. It would be appropriate to consider at this stage that there is a distinction between the determination of rentals and determination of compensation ultimately to be paid to the land. As far as the scope for determination of rentals is concerned, it would be appropriate to proceed on the basis of sq. ft.; perhaps that principle was rightly applied and rentals determined. But the said principle will not hold good to determine compensation for the acquired land. The question is : whether a normal, ordinary and prudent man, in given circumstances, would be willing to purchase 1 acre and 6 gunthas of land when offered in normal market conditions on sq. ft. basis? If the property is situated in well developed cities like Nariman Point in Bombay and Connaught Place in Delhi or other similar industrially well developed areas, the offer for sale on sq. ft. basis may be understandable. One would, as a prudent purchaser, shudder to purchase lands on sq. ft. basis. Determination of market value on sq. ft. basis would be arbitrary and is an irrational principle of law. It is now settled by series of judgments of this Court that determination of the compensation on sq. ft. basis is a wrong principle of law, particularly when large extents of lands are sought to be acquired for public purpose. Therefore, the High Court has proceeded on a wrong premise to determine the compensation on the basis of sq. ft.

The next question is : whether the lands are possessed of potential value? It is true that in the year 1965, when the lands were acquired, they were agricultural lands though they were converted into non-agricultural lands. But due to the establishment of defence establishment, the lands were converted into residential purpose. But as in 1972 the lands were possessed of potential value for building purpose. It may be legitimate to determine market value on the square yard basis. When that is done reasonably certain amount has to be deducted towards developmental charges. When such large extent of land is sought to be used for building purposes, necessarily internal roads are to be laid and drainage and other civic amenities are required to be provided. On

that premise at least 1/3 of the land acquired is to be set part for road purpose, developmental purpose and other civic amenities. Only when genuine sale deeds of small extent were the basis to determine compensation, 53% and in some cases 60% deduction was upheld by this Court. The mere fact that there is a connecting road to the lands by itself is not a correct principle of law in refusing to deduct towards developmental charges. Considered from this perspective and considered from the point of potentiality, we think that the reasonable and adequate compensation to which the lands would be possessed would be Rs. 1,50,000 per acre. This amount would be just, fair and adequate compensation.

The claimants are, therefore, entitled to compensation at Rs. 1.50 lakhs per acre with interest at 9% per annum on the enhanced compensation for one year from the date of Section 4(1) notification and 15% per annum till date of deposit into Court. They are also entitled to solatium at 30% on the enhanced compensation. The High Court has committed grievous error in granting additional amount @ 12% per annum under Section 23(1A) of the Act since the award of the Collector was made as early as on January 31, 1976.

The appeals are accordingly allowed but, in the circumstances, without costs. The cross objections are dismissed. No costs.

Appeals allowed.