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STATE OF U.P. AND ANR.

v.

RAJENDRA SINGH

JANUARY 25, 1996

B

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

*Land Acquisition Act, 1894 :*

C

*Sections 18, 20—Compensation—Award of—Burden on claimant to adduce reliable and acceptable evidence—Thereafter burden shifts to the State to disprove it—Court to carefully assess the evidence on the touch stone of human conduct and prudent purchaser—Approach adopted by Courts below beset with illegalities—Matter remitted to Reference Court to determine the compensation, after affording opportunity to the claimant and the Land Acquisition Officer.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2921 of 1996.

E

From the Judgment and Order dated 3.2.94 of the Allahabad High Court in F.A. No. 233 of 1988.

Pramod Swarup and A.K. Srivastava for the Appellants.

B.S. Jain, J.P. Singh and Ajay K. Agarwal for the Respondent.

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The following Order of the Court was delivered :

Leave granted.

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This appeal by special leave arises from the order of the High Court of Allahabad dated February 3, 1994 in FA No. 233/88. 5.357 acres of agricultural land situated in Daoodpur, Pargana Chinaiya-kot Tehsil Mohammadabad, District Azamgarh was acquired for construction of Sirsa Alpika. The Land Acquisition Officer in his award dated January 10, 1985 determined compensation @ Rs.3,658.87 per acre. Dissatisfied therewith, the respondent sought reference under Section 18 of the Land Acquisition Act, 1894 to the Civil Court. The Civil Court in its award and decree dated

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February 17, 1988 enhanced the compensation to Rs. 30,000 per acre.

Dissatisfied with the award of the Reference Court, both the claimants as well as the State filed the appeal. In the impugned judgment, the learned Judge granted compensation @ Rs. 69,013.11 per acre. Thus this appeal by special leave.

It is settled law that in reference under Section 18 claimant being dissatisfied with the award of the Land Acquisition Officer, when the proceedings are taken under Section 20 of the Act, burden is always on the claimant like plaintiff to adduce reliable and acceptable evidence to prove proper, just and adequate compensation to the acquired land. If such an evidence was adduced, burden shifts on to the State to disprove it. It is further settled law that the sales transactions filed either in the narration of award or documents, without examination of either the vendee or by the vendor is not evidence. It is the duty of the Court to carefully assess the evidence on the touch stone of human conduct and prudent purchaser. Admittedly, in this case, though reference to four sales transactions has been made by the reference Court, neither the vendee nor the vendor was examined nor was it established that the sale consideration which passed thereunder is true and the prices for which the sales came to be executed were real one between willing vendor and willing vendee. Equally, burden is on the claimant to establish that the lands relating to the sales transactions and the lands under acquisition are possessed of same value, nature of the lands are same and capable to fetch same price, and so also other situations as comparable features. Unfortunately, neither the reference Court nor the High Court has looked into this legal aspect of the matter and proceeded on the terms of those sale deeds. It is equally settled law that the Courts should avoid feats of imaginations, to fix fanciful price, and sit in the armchair of willing vendee to see whether a prudent purchaser acting in normal market condition would be willing to offer the price which are mentioned in the sale instances. The Court should clearly and carefully evaluate the evidence and determine market value avoiding needless burden on the exchequer and according adequate and just compensation to the acquired land. The very approach adopted by the courts below is beset with illegalities and, therefore, we do not find any legal basis to consider the evidence on record to determine proper and adequate compensation in respect of the acquired land.

Under these circumstances, we are left with no option but to set aside the decree and award of the reference Court as well as of the High Court

A and remit the matter to the reference Court to give an opportunity to the claimant as well as the Land Acquisition Officer to adduce evidence in the case and then to determine the compensation according to law.

The appeal is accordingly allowed but, in the circumstances, the parties are directed to bear their own costs.

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G.N.

Appeal allowed.