

THE LAND ACQUISITION OFFICER AND
SUB-COLLECTOR, GADWAL

v.

SMT. SREELATHA BHOOPAL AND ANR.

APRIL 21, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

Land Acquisition Act, 1894 :

Compensation—Award of—Land Acquisition Officer awarding Rs. 8,000 per acre—Confirmed by the High Court—On appeal held : —In view of the state of evidence, the large extent of land as also the facts the appropriate market value would be Rs. 20,000 per acre, which is substituted in place of Rs. 8,000 awarded by the Land Acquisition Officer and confirmed by High Court—Also entitled to usual solatium at the rate of 30% and interest on enhanced compensation at the rate of 9% per annum from the date of taking possession till the date of payment of such enhanced compensation and at the rate of 15% thereafter till deposit of enhanced compensation into the court.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3147 of 1997.

From the Judgment and Order dated 8.8.96 of the Andhra Pradesh High Court in A. No. 2391 of 1986.

Altaf Ahmed, Additional Solicitor General and B. Parthasarathy for the Appellant.

The following Order of the Court was delivered :

Though notices have been served, respondents are not appearing either in person or through counsel.

Leave granted.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on September 26, 1981 for public purpose, namely, establishment of Bus Depot/Stand in Gadwal Town of

Mahaboobnagar District in the State of Andhra Pradesh. The Land Acquisition Officer in his award dated December 27, 1983 awarded compensation at the rate of Rs. 8,000 per acre. On reference, the Civil Court by its award and decree dated November 15, 1985, enhanced the compensation to Rs. 20 per sq. yd. On appeal, the Division Bench of the A.P. High Court in Appeal No. 2391/86 by judgment and decree dated August 8, 1996 has confirmed the same. Thus, this appeal, by special leave.

The High Court has relied upon Ex. A-4 the sale wherein related to a small piece of land, and accordingly confirmed the market value @ Rs. 20 per sq. yd. It is now well settled legal position that small pieces of land cannot offer the same market value when a large track of land is purchased in an open market by a willing and prudent purchaser. It is settled legal position that the Court has to put itself in the armchair of a prudent purchaser and put the question to itself whether the land, in the given circumstances, would fetch the same market value as is likely to be determined by the court when small piece of land would be offered for sale. Unfortunately, the High Court has not adopted that principle; it has merely proceeded to rely open sale deed relating to a small piece of land. We have gone through the award of the Collector. The Collector referred to various sale deeds and ultimately he relied upon a sale transaction and held that the lands in the sale deed at Sl. No. 120, pertaining to survey Nos. 854, which fetched the rate of Rs. 4,519-77 as on the date of the sale, namely, December 27, 1978 was comparable one. The Land Acquisition Officer noted that the lands therein were converted into non-agricultural lands and the lands in question still remained to be agricultural lands and were adjacent to Gadwal Town. Under these circumstances, he awarded the market value at the rate of Rs. 8,000 per acre. It is settled legal position that the burden is on the claimant to prove by adducing acceptable evidence for higher compensation. Having rejected Ex. A-4 relied on by the High Court, though the award of Land Acquisition Officer is not evidence *stricto sensu* with a view to do substantial justice. We looked into it and considered the material collected therein. Having regard to the state of evidence and large extent of the land in question as also and the facts, we think that the appropriate market value would be Rs. 20,000 per acre and would be just and reasonable compensation.

The appeal is accordingly allowed. The order of the reference Court as confirmed by the High Court is set aside. Instead, the award shall be

substituted by Rs. 20,000 per acre with usual solatium at the rate of 30% and interest on enhanced compensation at the rate of 9% per annum from the date of taking possession to the date of payment of such enhanced compensation and at the rate of 15% thereafter till deposit of enhanced compensation into the court. No orders as to costs.

Appeal allowed.