

A

CHINTAMAN AND ANR.

v.

STATE OF MAHARASHTRA AND ANR.

AUGUST 7, 1996

B

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

*Land Acquisition Act, 1894 :*

C

*S.4(1), 11, 23(2), 34—Acquisition of land—Compensation—Land Acquisition Officer awarding compensation at the rate of Rs.5,000, Rs. 3,000 and Rs.2,000 per acre respectively for three different categories of lands and granting solatium and interest under ss.23(2) and 34—Reference court enhancing compensation at the rate of Rs. 0.40 per sq. ft.—High Court setting aside the award and decree of reference court and confirming award of the Land Acquisition Officer—Held, High Court was right in its conclusion—Since neither the sale deeds nor certified copies thereof were exhibited in court, oral evidence of witnesses examined to speak on the transactions could not be relied on—However, in view of the fact that the lands are very near to the city and possessed of potential value, market value of the lands is determined at Rs. 8,000 Rs. 6,000 and Rs. 4,000 respectively for the three categories of lands—Claimants would be entitled to solatium @ 15% and interest @ 6% per annum.*

E

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 10215-16 of 1983.

F

From the Judgment and Order dated 5.8.1981 of the Bombay High Court in First Appeal Nos. 63 and 64 of 1971.

H.W. Dhabe and A.K. Sanghi for the Appellants.

D.M. Nargolkar for the Respondents.

G

The following Order of the Court was delivered :

H

Notification under Section 4(1) of the Land Acquisition, 1894 (for short, the 'Act') was published in respect of different parcels of lands on February 23, 1964 and March 1, 1964 acquiring an extent of 6.67 acres in the first notification and 2.75 acres in the second notification for the

purpose of setting up spinning mill. The lands are situated near Nagpur Municipal Corporation practically now within urban agglomeration. The Land Acquisition Officer in his award dated October 6, 1966, determined the compensation @ Rs. 5,000 per acre in respect of some lands and Rs. 3,000 per acre in respect of other lands in the first notification and Rs. 2,000 per acre for the lands in the second notification and solatium and interest under Section 23(2) and Section 34 of the Act.

On reference, the civil Court by decree and award dated November 18, 1968 enhanced the compensation to Rs. 0.40 per sq. ft. On appeal by the State and cross-objection by the claimants, the High Court reversed the decree and award of the reference Court and confirmed the award of the Collector. Thus, these appeals by special leave.

Though learned counsel for the appellants stated that the High Court was in error in not relying upon the sale deed *Exts. 39 and 40*) to an extent of Rs. 5,000 per sq. ft. and Rs. 4,000 per sq. ft. respectively, the High Court was wholly right in its conclusion for the reason that neither the sale deeds nor the certified copies thereof were exhibited in the Court. In these circumstances, the documents are inadmissible, though the witnesses, AW 9 and 10 have been examined to speak on these transactions. In the absence of the sale deeds, no oral evidence could be relied upon. The reference Court had committed manifest error of law in relying on that evidence. But the fact that the lands are very near to the city and possessed of a potential value is not in dispute. Under these circumstances, we think that the appropriate course would be that the market value of the lands in respect of which Rs. 5,000 was awarded by the Collector shall be determined @ Rs. 8,000 per acre and the land for which Rs. 3,000 was awarded, would be valued @ Rs. 6,000 per acres. Similarly, in the case of second notification, the market value would be determined @ Rs. 4,000 per acre.

The award and decree of the reference Court is modified to the above extent. The claimants are entitled to solatium and interest under Section 23(2) @ 15% on the enhanced compensation and interest under Section 28 @ 6% per annum from the date of taking possession till date of deposit of enhanced compensation.

The appeals are accordingly allowed. No costs.

R.P.

Appeals allowed. H