

A THE SPECIAL LAND ACQUISITION OFFICER, DHARWAD
v.
SMT. TAJAR HANIFABI

AUGUST 19, 1996

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

Land Acquisition Act, 1894 : Sections 4, 11, 23 and 28.

C *Land Acquisition—Compensation—Determination of—Acquisition of six acres of land for Industrial Development—Award of compensation by Land Acquisition Officer on acreage basis—Reference Court and High Court determining compensation on square foot basis based upon a sale transaction relating to a small extent of land situated at one and a half kms. away from acquired land—Appeal—Held the compensation determined by the High Court and the reference court was not in accordance with law—The finding of Reference Court that the lands are possessed of potential value was obviously illegal—Held a sum of Rs. 45,000 per acre would be reasonable compensation for the acquired lands—Claimants held also entitled to solatium interest and additional amount.*

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11341 of 1996 Etc.

From the Judgment and Order dated 16.6.93 of the Karnataka High Court in M.F.A. No. 1395 of 1991.

F K.R. Nagaraja and K.L. Taneja for the Appellant.

K.V. Narayanappa and Ms. Kiran Suri for impleading party.

P. Mahale and Shanta Kr. Mahale for the Respondents.

G The following Order of the Court was delivered :

Impleadment allowed.

Leave granted.

H We have heard learned counsel for parties.

These appeals by special leave arises from the judgment and order of the High Court of Karnataka dated June 16, 1993 made in MFA No. 1395 of 1995. The admitted facts are that notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the "Act") was published on March 7, 1985 acquiring six acres of land near Chikodi municipality for industrial development. The Land Acquisition Officer (LAO) granted compensation on acreage basis. On reference, relying upon the sale deed Ex. P-8 in respect of land of an extent of 40" x 40" situated one and a half kms. away from the acquired lands which worked out to Rs. 12 per square foot, the Civil Judge enhanced the compensation to Rs. 6 per square foot which worked out to Rs. 2,66,360 per acre. On appeal, the High Court reduced the compensation to Rs. 4.50 per square foot which worked out to Rs. 1,96,020 per acre.

The only question for consideration is : whether the compensation determined by the High Court and the reference Court is in accordance with law? It is seen that the sole basis worked out by both the reference Court and the High Court was Ex. P-8 spoken to by the vendor PW-2 in respect of land of an extent of 40" x 40" in the developed area in which case the compensation worked out to Rs. 12 square foot. Since six acres of land was sought to be acquired in two survey numbers, admeasuring 1.15 gunthas in Rs. No. 407/2 and 4.25 gunthas in RS No. 417/1, no prudent and willing vendee would offer that rate of purchase of land on square foot basis. The High Court and the reference Court, therefore, committed obvious error of law in determining the compensation on square foot basis relying solely on Ex. P-8 It is seen that Ex. P-8 is in respect of a small extent of land admeasuring 40" x 40" situated at a distance of 1.5 kms. within the developed municipal are. Under those circumstances, PW-8 offered no comparable sale.

The question then is : what would be the reasonable compensation for the acquired lands? Though the reference Court has noted that it has a potential value, obviously it is a wrong finding given by it. On going through the award of the Collector we find, as specifically stated by him, that he had inspected the lands on August 11, 1986 before determination of the compensation; he found that the lands were cultivated and certificate to that effect was also obtained from the sub-Tehsildar. Under those circumstances, the finding that the lands are possessed of potential value is obviously illegal. It is seen that the respondents themselves had sold plots

- A of land admeasuring 60" x 40" which were part of the acquired lands, in the year 1985 for a sum of Rs. 6,000 per plot. It would be obvious that this document was brought in existence to inflate the market value which worked out to Rs. 1,89,000. From the totality of the facts, particularly that the lands are agricultural lands, we are of the view that a sum of Rs. 45,000 per acre would be reasonable compensation for the acquired lands.
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- The appeals are accordingly allowed. The claimants are entitled to solatium under Section 23(2) @ 30% of the enhanced compensation and interest under Section 28 @ 9% of the enhanced compensation from the date taking possession of the land for one year and thereafter @ 15% till date of deposit into Court. They are also entitled to additional amount under Section 23 (1-A) @ 12 per annum from the date of notification under Section 4(1) till date of award under Section 11 or of taking possession, whichever is earlier. No costs.
- C

T.N.A.

Appeals allowed.