

AHMEDABAD MUNICIPAL CORPN. ETC. ETC.

v.

SHARDABEN AND ORS. ETC. ETC.

JANUARY 19, 1996

[K. RAMAWSAMY AND G.T. NANAVALI, JJ.]

*Land Acquisition Act, 1984 :*

*Sections 4(1), 18, 54—Award of compensation—Principle of determination of compensation on the basis of average—Generally not to be followed—Difficulty in finding evidence of sale of land identical with each piece of land acquired—High Court looking into evidence generally and broadly and determining compensation—In the circumstance of the case, cannot be said to be unreasonable.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2950-2991 of 1996 Etc. Etc.

From the Judgment and Order dated 4/5.8.93 of the Gujarat High Court in F.A. Nos. 291-95, 1579-81, 1644-45, 1955-58, 1961-71/90, 2423, 2425-28/92 and 371-82 of 1993.

B.K. Mehta, R.F. Nariman, Prasant Desai, H.S. Parihar, K.S. Pathak, Aseem Mehrotra, A.K. Pandey, Anil B. Diwan, Ms. Indu Goswamy, S. Sanjannala, M.D. Jha, Vimal Dave, Gopinath Amin, Ms. Usha, S. Reddy, Ms. J.S. Wad, Ambrish Kumar, M.V. Goswami, Ms. Meenakshi Arora and Ms. H. Wahi for the appearing parties.

The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel for both side. The notification under Section 4(1) of the Land Acquisition Act (Act 1 of 1894) (for short, 'the Act') was published on September 23, 1980 acquiring a large extent of land in different survey numbers for laying Ring Road around Ahmedabad City. The Land Acquisition Officer passed three awards relating to two villages. Wadaj and Memnagar on three different dates, namely, September 29, 1984, December 31, 1985 and September 23, 1986 fixing compensation

ranging between Rs. 50-80. per square meter. Dissatisfied therewith, the claimants sought references under Section 18. The City Civil Court at Ahmedabad by three awards determined the compensation. In the first award, the civil court enhanced the compensation to Rs. 100 per square metre and in the next two awards, it confirmed the award of the Land Acquisition Officer. In other words, he made nil award. On appeal under Section 54 of the Act, the Division Bench of the High Court in the impugned judgment dated August 4/5, 1993 uniformly enhanced the compensation to Rs. 190 per square metre. Thus, these appeals by special leave.

Mr. B.K. Mehta, learned counsel for the appellant, vehemently contended that the High Court was wrong in its view. when no specific evidence relatable to particular survey number of comparable sale had been adduced by the parties, the High Court was wrong in adopting the average and determining the compensation on the basis of the average. Though we find force in the contention of learned counsel for the appellants, one important distinguishing feature which we have to notice in these appeals is that the acquisition relates to small strips of lands comprised in different survey numbers cutting into several lands for the purpose of laying a running Ring Road. In other words, the acquired land does not consist of a compact block for determination of compensation in which event the criticism of Shri Mehta would bear relevance and would need closer scrutiny and examination. The burden is always on the claimants to prove by adducing reliable evidence that the compensation offered by the Land Acquisition Officer is inadequate and the lands are capable of fetching higher market value. It is the duty of the Court to closely scrutinise the evidence, apply the test of prudent and willing purchaser, i.e., whether he would be willing to purchase in open and normal market conditions of the acquired lands and then determine just and adequate compensation.

In these appeals we find that the claimants have adduced evidence regarding sales of some lands in the locality. Though the evidence as regards comparability of those lands with the lands under acquisition was general and not specific, it could still be relied upon. So also, though the sale instances were of lands situated near some of the lands acquired only, they could still be relied upon as acquisition in these cases is of contiguous plots. In the very nature of acquisition, it would be difficult to find evidence of sale of land identical with each piece of land acquired. Under these circumstances, the High Court has looked into the evidence generally and

broadly and then determined the compensation. Though this Court has repeatedly not approved of the principle of determination of compensation on the basis of average, the conclusion reached by the High Court in the peculiar facts and circumstances of these cases, cannot be said to be unreasonable. Under these circumstances, we do not think that these appeals call for any interference for further enhancement of the compensation to reduce the market value.

The appellant-Corporation is directed to pay the balance amount and interest within four months from today. Contempt Petition Nos. 13-17 of 1995 and I.A. Nos. 45-70 are dismissed.

These appeals and cross-appeals are accordingly dismissed. No costs.

Appeals dismissed.