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THE STATE OF GUJARAT AND ORS.

v.

RAMA RANA AND ORS.

DECEMBER 13, 1996

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[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Land Acquisition Act, 1894 : Sections 4(1), 18 and 23.*

C

*Land Acquisition—Compensation—Principle for determination of—Land acquired for irrigation scheme—Compensation awarded for dry crops land, irrigated lands and waste land—As there were no sale deeds exhibited for determination of compensation Reference Court relied on oral evidence and determined the compensation on basis of yield—Accordingly it determined the market value after deducting 1/3 towards prices at Rs. 325 per acre—High Court confirmed the same—Appeal—Held expenditure is involved in raising and harvesting the crops and on an average 50% of the value of the crop realised goes towards cultivation expenses—Therefore, deduction of 1/3rd was not correct in determining the compensation of the lands on the basis of yield—Neither claimants nor Government took steps to produce best evidence—But oral evidence of witnesses cannot be rejected on that ground alone—Court has statutory duty to the society to subject the oral evidence to great scrutiny—Multiplier of 10 years should be applied and deduction of 50% towards cultivation expenses should be made—Claimants held entitled to solatium and interest.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 16945-64

of 1996.

From the Judgment and Order dated 22.9.95 of the Gujarat High Court in F.A. No. 2530-49 of 1995.

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Yashank Adhyaru, Ms. S. Hazarika and Mrs. H. Wahi for the Appellants.

P.S. Rao, Ms. Deepa and P.H. Parekh for the Respondents.

The following Order of the Court was delivered :

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Delay condoned. Leave granted.

We have heard learned counsel on both sides. These appeals by special leave arise from the judgment of the Gujarat High Court, made on September 22, 1995 in F.A. Nos. 2532- 2549/95. A

A total extent of 68 hectares 62.5 sq. mts. of land was acquired for irrigation scheme by publication of the notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short, the Act), on August 25, 1977. The Land Acquisition Officer in his award dated March 27, 1978 awarded compensation at the rate of Rs. 2023.50 per acre for the dry crop lands, Rs. 3035.25 for the irrigated lands, Rs. 40.47 for the waste lands. On reference under Section 18 of the Act, the Asstt. District Judge by his award and decree dated September 13, 1993 enhanced the compensation to Rs. 325 per acre to all the lands irrespective of the classification. On appeal, the High Court in the impugned judgment confirmed the same. Thus these appeals by special leave. B C

The Reference Court proceeded on the premise that there are no sale deeds exhibited for determination of the compensation. Therefore, the oral evidence was relied upon to determine the compensation, on the basis of the yield. 8 witnesses came to be examined in proof of the yield of the acquired lands. One of the witnesses was the Sarpanch of the village and his evidence was accepted. The Reference Court also found that the witnesses exaggerated the yield. On that basis, it determined the market value after deducting 1/3 towards prices at Rs. 325 per acre. It would be common knowledge that expenditure would be involved in raising and harvesting the crops and that, therefore, on an average 50% of the value of the crop the realised would go towards cultivation expenses. Therefore, deduction of 1/3rd was not correct in determining the compensation of the lands on the basis of yield. D E F

It is undoubtedly true that one of the methods of determination of compensation, in the absence of best evidence, namely, sale deeds, is the realised value of the crop. Normally, they should have produced the statistics from the Agriculture Department as to the nature of the crops and the prices prevailing at that time. But unfortunately, neither claimants nor the Government took any steps to adduce that best evidence. It is a fact that the Government have failed to adduce any evidence in that behalf. However, we cannot reject the oral evidence of the witnesses on that ground alone. The court has statutory duty to the society to subject the oral H

A evidence to great scrutiny, applying the test of normal prudent man, i.e., whether he would be willing to purchase the land at the rates proposed by the Court. On the touch stone of this, the Court should evaluate the evidence objectively and dispassionately and reach a finding on compensation. The reference Court has accepted the evidence of the Sarpanch to be the reliable person. Therefore, we proceed on that premise. The appropriate multiplier should be of 10 years as settled by several judgments of this Court. Necessarily, 50% of the net value towards cultivation expenses requires to be deducted. The award of the Reference Court, as confirmed by the High court stands set aside and the value of the crop as determined by the Reference Court at Rs. 2,050 as average annual income stands upheld. Multiplier of 10 years should be applied and deduction of 50% towards cultivation expenses should be made. After giving deduction, the balance will be the net value of the land. On that basis, the claimants are entitled to Rs. 20,500 per acre with solatium @ 30% on enhanced compensation and interest on enhanced compensation @ 0.9% per annum for one year from the date of taking possession and 15% per annum till date of deposit into the court under the Act as amended by Act 68 of 1984, namely 30% solatium on the enhanced compensation, interest on the enhanced compensation from the date of taking possession for one year at 9% and thereafter at 15% till date of deposit.

E The appeals are accordingly allowed. No costs.

T.N.A.

Appeals allowed.