

GHEEVARGHESE MATHEW ETC.
v.
STATE OF KERALA AND ANR. ETC.

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SEPTEMBER 17, 1996

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

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Land Acquisition Act, 1894 :

Compensation—Award of—Appeal by claimants for enhancement—High Court granting compensation at Rs. 1000 per cent—On appeal by claimants for further enhancement held : Ten months prior to the date of Notification, claimants assessed the compensation at Rs. 350 per cent and offered to sell at that rate—High Court awarded compensation at Rs. 1000 per cent which is three times more than what was offered by the claimants themselves—No interference called for to increase further compensation.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4123 of 1991.

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From the Judgment and order dated 17.9.90 of the Kerala High Court in L.A.A. No. 270 of 1985.

E

With Civil Appeal Nos. 4124/91 and 11812/95.

T.L. V. Iyer, Ramesh Babu, M.R. B.V. Deepak, M.T. George and Ms. Malini Poduval (NP) for the Appellants.

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G. Viswanath Iyer, T.G.N. Nair and Shakil Ahmed Syed for the Respondents.

The following Order of the Court was delivered :

Notification under Section 3(1) of the Kerala Land Acquisition Act, 1950 which is equivalent to Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) was published on July 8, 1980 acquiring an extent of 3.37 hectares of land for public purpose, namely, Greater Cochin Development Authority, for the purpose of the Site and Service Scheme at Always. The land Acquisition Officer in his award dated March 19, 1982 determined compensation at Rs. 280 per cent as against Rs. 2000 per cent claimed by

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A the appellants. On reference, the civil court enhanced the compensation to Rs. 1800 per cent by its award and decree dated August 7, 1984. On further appeal by the State, the High Court reduced the compensation to Rs. 1000 per cent. Thus, these appeals by special leave.

B Shri T.L.V. Iyer, learned senior counsel for the appellants, has contended that the lands under Exs. A-6 to A-B, of an extent ranging between 60 cents and 40 cents had been sold on March 31, 1976, April 13, 1976 and April 21, 1976 respectively at the rate of Rs. 800 per cent. Ex. A-3 to A-5 would indicate steep rise in the value till the date of the notification. That was spoken of even by RW 2, the executive Officer of C the Panchayat. The acquired lands are abutting the two roads on either side. The developed area is situated near the acquired lands. These facts had been duly taken note of by the reference Court in determining reference under Section 18. The High Court had not adverted to these relevant facts but considered Exs. A-6 to A-8 and held that the compensation at D Rs. 1000 would be the just compensation. Unless the findings of the reference Court were found to be perverse, the High Court would not have interfered with the award of the reference Court. Shri G. Viswanatha Iyer, learned senior counsel for the respondent, placed reliance on a document, a letter addressed by the claimants themselves wherein they have agreed as on October 15, 1979 to sell the property to GCDA @ Rs. 350 per cent. E In view of this circumstance, it does not warrant more compensation than has been awarded by the High Court.

Having regard to the respective contentions, the question that arises for consideration is: what would be the responsible compensation with the F acquired lands are capable to secure? It is seen that Exs. A-3 to A-5 offer no comparable value. As stated by Shri Viswanatha Iyer, that they offer only an evidence of rise in the price. It is seen that lands under Ex A-6 to A-8 also were purchased by common institution from the persons, brothers and sisters, which happened to be contiguous to their institution for better G utilisation. Under those circumstances, they cannot be automatically offered as comparable sales for the lands in question. Admittedly, the lands are situated outside Alwaye Municipal limits as on the date of notification. The High Court having considered the totality of the facts and circumstances reduced the compensation to Rs. 1000 per cent as against Rs. 2000 per cent as claimed by the appellants. It is more than 4-1/2 times than what H was granted by the Land Acquisition Officer. The State did not file any

appeal.

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It is seen from the letter addressed by the appellants themselves on October 15, 1979, i.e. 10 months prior to the date of the notification, that they had assessed the compensation at Rs. 350 per cent and offered to sell it at that rate. But for the fact that no agreement as contemplated under sub-section (2) of Section 11 has been executed, this admission stares at their face to claim any further enhancement in the compensation. It was not necessary for the High Court, before reversing the judgment of the reference Court, to reach at a conclusion that the award and judgment of the reference Court was perverse or wholly unsustainable. It is the mandatory duty of the Court to consider the entire evidence by applying the tests and principle of law as settled by this Court in assessing the compensation and to find out as to what would be the reasonable market value which the lands are capable to command in open market. It the estimate of the High Court, the reasonable compensation is Rs. 1000 per cent which is three times more than that was offered by the claimants themselves. Under these circumstances, we do not think that these cases warrant interference to increase further compensation.

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The appeals are dismissed, but without costs.

G.N.

Appeals dismissed.