

P. RAJAN AND ANR. A
v.
THE KERALA STATE ELECTRICITY BOARD AND ANR.

OCTOBER 25, 1996

[K. RAMASWAMY AND S.P. KURDUKAR, JJ.] B

Land Acquisition Act, 1894 :

Compensation—Award of—Reference Court enhancing compensation—High Court reducing the same—Justification—Held, when large extent of land is acquired, determination of compensation on the basis of square yard or square foot basis is wrong principle—Also land converted into building plots or land in well developed area like heart of commercial centre to be given weightage—Sale deeds furnished—Does not furnish reasonable basis since the lands are within municipal limits and well developed—Post—notification sale of small extent—Also does not furnish reasonable basis for determination of market value and compensation. C D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 14526 of 1996. E

From the Judgment and Order dated 29.1.90 of the Kerala High Court in L.A.A. No. 232 of 1986.

John Mathew, Roy Abhram and M.K.D. Namboodri for the Appellants. F

G.Viswanatha Iyer, T.G.N. Nair and M.T. George for the Respondents, No.1.

The following Order of the Court was delivered : G

Leave granted.

Notification under Section 4(1) of the Land Acquisition Act was published on October 13, 1979 acquiring a large extent of land admeasuring 7 acres, 8 cents together with a building situated in 1600 sq.mtrs. of the H

- A land. The Land Acquisition Officer awarded compensation @ Rs. 1432.50 per cent, Rs. 2,35,283 for the building and Rs. 24,033 for the trees as well as Rs. 4,19,006 for the wells. The reference Court enhanced the compensation for the land to Rs. 3,000 per cent and awarded an additional amount of Rs. 1,83,783,60 towards building and Rs. 17,958 as value of improvements. The respondents filed an appeal before the High Court.
- B The High Court allowed the appeal of the respondent, reducing the land value to Rs. 2,000 per cent. This appeal by special leave has been filed by the appellants—claimants challenging the reduction of the compensation by the High Court.

- C The question for consideration is: whether the view taken by the High Court is correct in law? It is seen that the courts below have relied upon Exs. A-1, A-2, A-7 and A-9. The respondents have relied upon Exs. R-1 and R-6. Ex. A-1 is the sale deed dated July 31, 1978 pertaining to sale of an extent of 2-1/2 cents of land whose value was worked out @ Rs. 3,000 per cent spoken to by AW-4. It is an admitted position that the lands covered by the said sale transaction are situated within the municipal limits in a developed area. The distance between the acquired land and the land covered by the sale deed is 2-1/2 kms. Under these circumstances, the said sale deed does not furnish any reasonable basis to determine the market value and compensation. Equally, Ex. A-2 is dated November 15, 1978 spoken to by AW-2. It is a small extent of land situated within the municipal limits which worked out at Rs. 4,000 per cent. Ex. A-7 is dated August 1, 1979 and the extent of the land has not been mentioned; but it is an admitted position that it is a small piece of land purchased by AW-3 which worked out to Rs. 26,000 per cent. Ex. A-9 is a post-notification sale deed dated October 9, 1980 pertaining to sale of an extent of three cents of land purchased by AW-5 which worked to Rs. 5,000 per cent. This also being post-notification and being in respect of a small extent of land, does not furnish any reasonable basis for determination of the market value and compensation.
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- F

- G It is well settled legal position that when large extent of land is acquired, determination of compensation on the foot of a cent, square yard or square foot is wrong principle. This Court repeatedly emphasised, that the principle of fixation on acreage basis would be the correct principal. The other principle is that if the land acquired is situated in a developed area and is converted into buildings in a colony after obtaining sanction from the competent authority or is situated in a well-developed area like
- H in the heart of a commercial centre, determination of the compensation

could be on square yard basis after giving due deduction according to law. A
Determination on square foot basis would be confined only to highly
developed Commercial land or land situated at a place in the heart of a
city like Nariman Point in Bombay or Cannaught Place in Delhi. This
principal of determination of compensation on square foot basis would be
justified.

It is seen that Ex. R-1 is dated October 27, 1979 involving 15 cents B
of land sold by RS-1 which worked out to Rs. 2,800 per cent. In view of
the large extent of land and in view of the fact that the sale deeds are in
respect of small extents of land, they do not offer any reasonable basis to
determine the market value and compensation higher than that granted by
the High Court which had become final. C

Under these circumstances, we do not find any compelling evidence
or the application of any wrong principle of law to conclude that the High
Court has ignored any material evidence in determining the compensation.
No error of law has been committed by the High Court for warranting
interference with the valuation of the market value of the land. D

As regards the building, it is not in dispute that the Executive
Engineer of the Department of the Government assessed the value of the
building. Though the Commissioner Engineer appointed by the reference
Court had valued the building and the material at Rs. 1,85,026 consisting
of the valuation and appreciation of 15 per cent etc. the High Court found E
that there is reliable evidence placed on record in awarding 15% more as
was assessed by the Engineer. This also being on appreciation of evidence,
we do not find any unimpeachable material to find that the view taken by
the High Court is warranted for interference on the facts of this case.

Under these circumstances, we do not find any compelling reason
warranting interference. F

The appeal is accordingly dismissed. No costs.

G.N.

Appeal dismissed. G