

THE SPL. LAND ACQUISITION OFFICER, KARNATAKA
HOUSING BOARD AND ORS.

A

v.

P.M. MALLAPPA AND ORS.

MARCH 14, 1997

B

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

Land Acquisition Act, 1894 :

Land Acquisition—Dry land—Compensation—Determination of—Land Acquisition Officer awarded compensation at the rate of Rs. 8,000 per acre—Reference court enhanced compensation to Rs. 15,000 and on reconsideration after direction of High Court, it enhanced the compensation to Rs. 38,000 per acre which was not challenged by State—On writ petition by land owner, High Court enhanced compensation to Rs. 12 per sq. yd. i.e. Rs. 58,000 per acre—Held, potential value shall be determined for the land existing as on the date of notification, not after subsequent developments have taken place—Value of developed land bears no relevance in this regard—Order of High Court set aside and that of reference court stands confirmed.

C

D

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2228-34 of 1997.

E

From the Judgment and Order dated 22.12.95 of the Karnataka High Court in M.F.A. Nos. 2688-90/88, 2069/89, 3062/87, 2691/88 and 91 of 1991.

G.L. Sanghi, S.K. Kulkarni and Ms. Sangeeta Kumari for the Appellants.

F

S.R. Bhat, Naveen R. Nath, Mrs. Kiran Bhardwaj and Ms. Hetu Arora for the Respondents.

The following Order of the Court was delivered :

G

Notice on other respondents has been served. They are not appearing either in person or through counsel. Delay condoned. S.R. Bhatt appears for one respondent in one appeal.

Leave granted.

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A These appeals, by special leave, arise from the judgment of the Division Bench of the Karnataka High Court, dated December 22, 1995 made in M.F.A. Nos. 2688/88 and batch.

B Notification under section 4(1) of the Land Acquisition Act (for short, the 'Act') acquiring a large extent of land was published on March 25, 1971. The Land Acquisition Officer in its award granted compensation at the rate of Rs. 8,000 per acre for the dry lands with which we are now concerned. We are not concerned with other lands because there is no appeal in that behalf. On reference under Section 18 of the Act, the Civil Court enhanced the compensation to Rs. 15,000 per acre. The High Court remitted the matter to the reference Court for reconsideration. Thereafter, the reference Court enhanced the compensation to Rs. 38,000. On appeal, the High Court by the impugned judgment has enhanced the compensation to Rs. 12 per sq. yd. which amounts to Rs. 58,000 per acre. It is seen that since the respondents have not filed any appeal under Section 26 of the Act against the award granting enhanced compensation of Rs. 38,000 per acre, we do not propose to go into the enhancement granted by the reference Court.

E The only question is : whether the High Court would be justified in enhancing the compensation to Rs. 12 per sq. yd., in other words, Rs. 58,000 per acre. Admittedly, the land is dry land and the Land Acquisition Officer had pointed out in his award that the converted lands for which he had awarded compensation at the rate of Rs. 9,000 and Rs. 10,000 per acre, bear different connotation to the actual dry land existing as on that date. The potential value shall be determined for the land existing as on the date of the notification and not after subsequent developments have taken place. F The value of the developed land bears no relevance to further enhancement of the value. Under these circumstances, the High Court has wholly incorrect in enhancing the compensation to Rs. 12 per sq. yd., i.e., Rs. 58,000 per acre.

G The appeals are accordingly allowed and the judgment and order of the High Court stand set aside and that of the reference Court stands confirmed. No costs.

R.P.

Appeals allowed.