

(2016) 01 SC CK 0033

In the Supreme Court Of India

Case No : Civil Appeal No. 282 of 2016 (Arising out of Special Leave Petition (C) No. 21956 of 2014)

Arun Manohar Dange and Others

APPELLANT

Vs

Special Land Acquisition Officer

RESPONDENT

Date of Decision : 18-01-2016

Acts Referred:

Citation : (2016) 2 ALLMR 979 : (2016) 1 ApexCourtJudgments(SC) 663 : (2016) 2 BCR 154 : (2016) 1 JT 377 : (2016) 2 LawHerald 1574 : (2016) 2 LawHeraldSC 1040 : (2016) 2 RCRCivil 169 : (2016) 2 RecentApexJudgments(RAJ) 72 : (2016) 2 Scale 98 : (2016) 13 SCC 319

Hon'ble Judges : Kurian Joseph and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : Amol Chitale and Pragya Baghel, Advocates, for the Appellant; V. Pattabhiram and Nishant Ramakantrao Katneshwakar, Advocates, for the Respondent

Final Decision : Allowed

Judgement

Kurian Joseph, J.—1. Leave granted.

2. The issue pertains to the determination of just compensation for the land acquired from the Appellants. The dispute is in a narrow compass as to whether there should be 75% deduction for development charges. The reasons stated by the High Court in paragraph 12 of the impugned judgment reads as follows:

12. Now the question is what should be the deduction made for arriving at the market value of the acquired land on the basis of the market value reflected from Exhibit 32. The rate of market value reflected from Exhibit 32 is Rs. 381/- per sq. meter. The area of the acquired and is very large - 9900 sq. meters. There were no internal roads or drainage lines on the acquired land. Apart from the largeness of the acquired land, a substantial deduction will have to be made on account of cost of development. The decision in the case of Bhagwathula Samanna (supra) relied upon by the learned Counsel appearing for the

Appellants will not help him as in the facts of the case, the land was acquired for housing purposes and the finding of fact was that there were roads, electricity and drainage facilities in the nearby locality. Deduction on account of development cost normally ranges from 10% to 75%. Considering the fact that we are comparing a large acquired land of 9900 sq. meters which was an agricultural land with a developed plot of land admeasuring only 778.80 sq. mtrs., maximum deduction of 75% will have to be made on account of cost of development....

3. Our attention has been invited by the learned Counsel for the Appellants to paragraph 5 of the impugned Judgment, "the acquired land was situated on the relevant date within the limits of Pen Municipal Council". It is stated in the award itself that the basic amenities such as electricity and water supply were available in the municipality as on the date of the award. There were educational facilities such as primary, secondary and higher education schools as well as colleges available and the main city is near to the main market place. All these amenities were available in the municipality on the relevant date. Bombay-Goa National Highway passes through the municipality. There was a railway station in the city and the adjoining areas were developing quite fast. It has also been noted by the High Court in paragraph 9 of the impugned judgment that there was evidence available to the effect that the acquired land can be utilised for setting up of a housing colony and that there was overall growth in and around the municipality.

4. Thus, having regard to all these aspects, the market value having been fixed by the High Court at Rs. 445/- per sq. meter, we fail to appreciate the basis for deduction of 75%. Though the learned Counsel for the Respondent vehemently contended before us that the land value fixed for a small plot cannot be taken as a base for fixation of land value of the Appellants, which comes to 9900 sq. meters. There is a quarrel with regard to this submission. But the question is whether the High Court has taken into consideration the stage of the development of the property in and around the acquired land, which we have referred to above in detail, as per the evidence available on record.

5. In that view of the matter, we do not find any justification for deviating from the normal practice adopted by the courts in limiting the deduction only by 1/3rd of the market value. We are persuaded to follow the same principle, taking note also of the fact that the purpose of acquisition was for water filtering shed.

6. There is no dispute that the land was in "No Development Zone" and further deduction of 10% was in any way unjustified.

7. Thus, we allow the appeal and limit the total deduction to 33%+10%, which comes to 44%. The reference court shall work out the compensation accordingly.

8. There shall be no order as to costs.