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In the Bombay High Court

Bai Jadav and Others — APPELLANT

Vs

Collector of Broach — RESPONDENT

Date of Decision : 03-11-1925

Acts Referred:
Land Acquisition Act, 1894 — Section 23(1)(4)

Citation : AIR 1926 Bom 372

Hon'ble Judges : Macleod, C.J

Bench : Division Bench

Judgement

Macleod, C.J.—There were three References filed under the Land Acquisition, Act in the Court of the District Judge of Broach, viz., 1 of 1920, 2 of 1921, and 2 of 1922. The land under acquisition lay to the west of the goods yard outside the Broach railway station. The Broach Jambusar Railway ran through the middle of it. On the south side of that railway parts of Survey Nos. 42, 43 and 44 were acquired, and on the north portions of the same survey numbers.

2. The Collector valued the land, the subject-matter of Reference No. 1 of 1920, at Rs. 400 an acre, and the land, the subject-matter of References Nos. 2 of 1921 and 2 of 1922, at Rs. 600 an acre. The District Judge considered that the market value of the land in each case was Rs. 500. But in References Nos. 2 of 1921 and 2 of 1922 he allowed further compensation to the claimants on account of severance u/s 23(1)(4) of the Land Acquisition Act, with the result that, though he allowed less than the value of the land awarded by the Collector, the total compensation awarded was more.

3. We do not think, then, that the Judge was in error in infringing the rule under which the Court is not entitled to award as compensation to a claimant under the Land Acquisition Act an amount less than the amount offered by the Collector. The compensation u/s 23 of the Act is to be determined after certain matters have been taken into consideration by the Court and the total compensation has to be looked to and not the various items which make up that total.

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4. Now the land under acquisition has been fully described by the District Judge. He came to the conclusion that it had practically no potential value for building purposes. It was not used for agricultural purposes, and it is difficult to believe from the description given of the laud by the Judge that anyone, who wanted land for building purposes, would have been attracted towards it. As the Judge remarks, those survey numbers were bounded on the south by the Nathelao Sindhao Lane which is twenty feet below the general level of the ground. The land to the south of the lane had access to the White Road leading to the Broach city, so that its value would have no relevance whatever for any one attempting to find the value of the land in reference.

5. The Nathelao Lane being twenty feet below the level of the land was really a nalla, which would only offer access during the dry season and would be flooded during the rainy season. In any event no person would contemplate purchasing the land in reference, which had no access to it except at the best from a lane twenty feet below its level, for building purposes. As the Judge remarks:

The costs for bridging the sunken lanes on the east and south or of making approach roads from either the lanes into the lands and up to the White Road capable of being claimed by laden carts would be so great as to reduce the potential value of the land as sites for warehouses to such an extent as to negative its value for warehouses apart from its distance from the business quarter of the city about 11/2 miles.

6. It is difficult then really to attach any value to the land in reference. When the land required for the Jambusar Line was acquired in 1914 somewhere between Rs. 270 and Rs. 300 an acre was awarded. We think that the awards in these cases by the District Judge, amounting in one Reference to Rs. 500 an acre and in two other References to over Rs. 600 an acre, are certainly more than would be warranted considering the situation of the land.

7. We dismiss the appeal with Costs.

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