
(2002) 04 MP CK 0006
In the Madhya Pradesh High Court
Case No : M.A. No. 551 of 2002 (J)

Jabalpur Development Authority, Jabalpur	APPELLANT
Vs	
Ramesh Prasad Yadav	RESPONDENT

Date of Decision : 23-04-2002

Acts Referred:

Madhya Pradesh Town improvement Trust Act, 1960 — Section 147

Citation : (2002) 2 MPJR 498

Hon'ble Judges : Bhawani Singh, C.J.;Ajit Singh, J

Bench : Division Bench

Advocate : S.K. Mishra, for the Appellant; L.N. Namdeo, for the Respondent

Final Decision : Dismissed

Judgement

Bhawani Singh, CJ

Jabalpur Development Authority (for short JDA) has challenged the award dated November 6, 2001, passed by the IXth Additional District Judge, Jabalpur, in Land Acquisition case No. 51/95, modifying the value of land announced by the Town Improvement Trust (for short "TIT") from Rs. 6595.80 paisa per acre to Rs. 1.25 paisa per sq. ft.

Father of the respondent Late Badri Prasad Yadav owned the land bearing Khasra No. 5/4 measuring 5.143 hectares, Khasra No. 6 measuring 0.154 hectares, situate in village Laxmipur and Khasra No. 56/2 measuring 4.706 hectares situated in village Lamti. By Gazette Notification dated 31.7.1990 issued under the Town Improvement Trust Act, 1960 (for short "Act of 1960"), the land owned by several owners in villages Laxmipur and Lamti was acquired. The TIT acquired the land at the rate of Rs. 6595.80 paisa per acre for the entire land measuring 24.72 acre. Thus, the total amount of compensation comes to Rs. 1,63,048.17 paisa for land, Rs. 2445/- for trees and Rs. 330/- for house, taking total compensation of Rs. 1,65,823.17 paisa. The claimant/respondent is also awarded compensation of Rs. 24,873.45 paisa towards compulsory acquisition and

solatium at the rate of 15%. The claimant/respondent received the amount of Rs. 1,90,696.62 paisa under protest on 19.3.1982.

The claimant/respondent sought reference to the District Judge, Jabalpur, for determination of proper compensation. When it was declined, Writ Petition No. 3274/93 was filed in this Court, during the pendency of which Badri Prasad Yadav died and Remesh Prasad Yadav (respondent in this appeal) succeeded.

By the impugned award dated 6.11.2001, the IXth Additional District Judge, Jabalpur, decided the reference and came to the conclusion that on the date of notification for acquisition of the land in question, the value of land was Rs. 1.25 paise per sq. ft. The total land acquired was 24.72 acres and the claimant would be entitled to solatium at the rate of 15% on the compensation, apart from interest at the rate of 6% on the compensation and solatium from 25.10.1980 to 19.3.1982. Further its direction is that after making deduction of Rs. 1,90,696.62 paisa out of the compensation awarded, remaining amount will carry interest at the rate of 6% from 19.3.1982 till payment. Through this appeal u/s 147 of the Act of 1960, the appellant-JDA has challenged this award.

Shri S.K. Mishra, learned counsel appearing for the appellant-JDA, vehemently contends that the award dated 6.11.2001 is liable to be set aside for the reasons that the compensation has not been properly assessed in this appeal. Precisely, submission is that the compensation has been assessed on assumption that the land under acquisition has same potential, which is subject matter of Misc. First Appeal No. 570/92 (Ramcharan Yadav (since deceased) & 9 others v. The Town Improvement Trust, Jabalpur) and nine other connected matters. The land in this case is situated at a distance, therefore, does not have same potential, hence the compensation, which has been assessed by the TIT, was proper compensation for the land in question. Learned counsel places reliance on the Apex Court decision in Kanwar Singh and Others Vs. Union of India,).

Shri L.N. Namdeo, learned counsel appearing for the claimant/respondent, submits that proper compensation has been settled by the Court taking into consideration the location of the land potential thereof and principle of equality in determination and payment of same compensation to all the land owners, whose lands were subject matter of acquisition by the appellant/JDA. The counsel for the parties referred to decision of this court in similar matter (supra), beside the statement of witnesses in support of their respective submissions. Giving serious consideration, we proceed to decide the fundamental question as to the determination of compensation in this case.

There is no (sic) dispute that by Gazette Notification dated 31.7.1970, the lands owned by large number of owners within the Municipal Corporation, Jabalpur, including the land of the respondent/claimant were acquired. The lands are in two villages, namely, Laxmipur and Lamti. There is no dispute that these are adjoining villages. The land owners, whose cases are decided by this court by order dated 24.3.1998, passed in Misc. First Appeal No. 570/92 (Ramcharan

Yadav v. The Town improvement Trust, Jabalpur) and 9 connected matters (supra), belonged to Laxmipur and Lamti villages. The acquired land of the claimant/respondent is also in village Laxmipur and Lamti. With regard to potential and location of land, Shyam Mandal (DW 1) states that this land is adjoining to the land of which decision has been given by this Court. The claimant states that his land is within the limit of Jabalpur Municipal Corporation adjoining to which are State Bank colony, Krishi Upaj Mandi, Industrial Training Institute etc., which has been constructed before the acquisition of this land. The lands of his uncle-Durga prasad, Kallulal, Ramcharan, Asharam Yadav etc. are also adjoining to this land regarding which owners have been awarded compensation of Rs. 1.25 paisa per sq. ft., as per order (Ex.P/1). The Industrial Training Institute is situated at a distance of one km. on Damoh road. Kedarnath Yadav (PW2) states that Badri Prasad Yadav was his uncle, therefore, he knew him. The land in question was acquired by JDA. Adjoining to his land, land of Badri Prasad Yadav is situated. High Court awarded compensation of Rs. 1.25 per sq. ft. for his land. Land of respondent is in village Laxmipur and Lamti. The State Bank Colony has been constructed at the place in 1980. The witnesses of the respondent/claimant have not been subjected to cross-examination by the appellant/JDA, with regard to location and potential of land. Therefore, the contention that this land does not possess the same potential nor location, which was possessed by other lands decided by this Court in Ramcharan Yadav's case (supra), cannot be accepted.

The decision of the Apex Court in Kanwar Singh's case (supra) turns on its facts. Rather, decision in Thakarsibhai Devjibhai and Others Vs. Executive Engineer, Gujarat and Another,) is nearer to the issue involved in this case. Thus, the substance of the matter is that all the lands were acquired by same notification dated 31.7.1970. They are in villages Laxmipur and Lamti. They are within the limit of Jabalpur Municipal Corporation. The lands have been acquired for housing purposes being located at short distance from main city. All these lands were being cultivated before acquisition. Before acquisition, State Bank Colony, Industrial Training Institution, Krishi Upaj Mandi etc. were already established there. The area is on Jabalpur Damoh high way. The lands of other owners are adjoining to the land in question, some of which are relations of the claimant. The lands have common similarities. With this back ground, it is difficult to hold that the claimant/respondent does not deserve the same compensation, which has been awarded to the land owners of other adjoining lands covered by the same acquisition notification.

Consequently, we hold that the impugned award dated 6.11.2001 of the IXth Additional District Judge, Jabalpur, is based on evidence in the case. There is no justification to interfere with the same on any ground raised by the appellant. Therefore, we find no merit in this appeal and the same is dismissed.

The appellant should have considered the case of the respondent being similar to the cases decided by this Court by order dated 24.8.1998, later upheld by the

Apex Court and awarded same compensation to the respondent also. It did not do so and continued fighting the case till date with regard to acquisition, which took place in 1970. Therefore, the appellant shall pay cost of Rs. 3,000/-to the respondent.