

(2011) 01 SC CK 0023

In the Supreme Court Of India

Case No : Civil Appeal No's. 5007-5024 of 2002

Keshavadas Shridharao Savakar and Others

APPELLANT

Vs

Assistant Commnr. and Land Acquisition Officer and Another

RESPONDENT

Date of Decision : 28-01-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 27
Constitution of India, 1950 — Article 142
Land Acquisition Act, 1894 — Section 4(1), 54

Citation : (2011) 2 AWC 1973 : (2011) 114 RD 6 : (2011) 2 SCALE 4 : (2011) 11 SCC 476 : (2011) 2 UJ 1814

Hon'ble Judges : G. S. Singhvi, J;Asok Kumar Ganguly, J

Bench : Division Bench

Advocate : Chandrashekar, Gurudatta Ankolekar and Azeem Kalebudde, for the Appellant; S. Balakrishnan and S.N. Jha, for the Respondent

Final Decision : Allowed

Judgement

Asok Kumar Ganguly, J.—In these civil appeals, the dispute is primarily over the quantum of the market value of the land acquired by the Government of Karnataka (hereinafter the said Government').

2. Pursuant to a notification issued u/s 4(1) of the Land Acquisition Act, published in the Karnataka Gazette on 16.05.1991 an extent of 76 acres and 10 gunt as of land situated in Gadag were acquired for Karnataka Housing Board (hereinafter the Board'). The Land Acquisition Officer determined the market value at Rs. 35,000/- per acre and passed an award to that effect on 5th March, 1994. Assailing the said quantum, the landowners filed a reference. The Reference Court on a detailed consideration of the matter and after examining 22 witnesses and scrutinizing about 35 documents, which were made exhibits, fixed the market value of the acquired land at Rs. 14,500/- per gunta, apart from granting other statutory benefits.

3. The operative portion of the order of the Reference Court is set out below:

1. Reference in L.A.C. No. 12/95 to 20/95 are accepted in part.
2. Market value in respect of the acquired lands is determined at Rs. 14,500/- per gunta.
3. The claimants are entitled to additional market value at 12% p.a. on the market value from the date of preliminary notification to the date of the award of the L. A. O. or the date of dispossession whichever is earlier.
4. The claimants are entitled to solatium at 30% on enhanced market value.
5. The claimants are entitled to the interest at 9% p.a. on the enhanced compensation from the date of dispossession for a period of one year and further interest at 15% p.a. on the enhanced compensation after expiry of above stated one year till the date of payment.
6. The original judgment is kept in L.A.C. No. 12/95 and copies are ordered to be kept in L.A.C. No. 13/95 to 20/95.

(Dictated to the stenographer, typed by her, corrected by me and then pronounced in open Court)

Gadag Dated. 25.01.2000

(B.M. Angadi) Civil Judge, Senior Division, Gadag.

4. In coming to the aforesaid findings, the Reference Court made it clear that the Land Acquisition Officer had not at all considered the non-agricultural potentiality of the acquired land, even though the land was within the municipal limits. The Reference Court also relied on a map which was prepared by PW-1 showing the civil amenities in the vicinity of the acquired land. The Reference Court also relied on sale deeds Ext. P-8 to P-17.

5. Being aggrieved by the order of the Reference Court dated 25.1.2000, the claimants filed a Miscellaneous First Appeal before the High Court u/s 54 of the Land Acquisition Act. The High Court framed two questions:

i. Whether the finding of the Reference Court that the fixation of market value by LAO is inadequate, is correct?

ii. Whether the market value fixed by the Reference Court at Rs. 14,500/- per gunta is erroneous and requires interference?

6. After a lengthy discussion, the High Court held that the determination by the Reference Court on the basis of sale transactions (Ext. P-8 to P-17) is based on two premises. According to the High Court, the two premises were:

i. The auction sales (disclosed by Ex. P 8 to Ex. P 17) reflect the proper market value in the area.

ii. The sites sold under Ex. P 9 to P 17 are in close proximity to the acquired land; that is sites 3, 4, 5, 6, 7 and 8 covered by sale deeds (Ex. P 9 to Ex. P 14)

are within a distance of 60 mtrs. and sites 1, 9, 12 and 13 covered by sale deeds (Ex. P 8, P 15, P 16 and P 17) are at a distance of about 500 mtrs. from the acquired land.

7. The High Court held both the premises to be incorrect and did not uphold the decision of the Reference Court. However, the High Court noted that the Board, the beneficiary of the acquisition, had filed an application under Order XLI Rule 27 of the Code of Civil Procedure, for leading of further evidence stating therein that some of the landowners had given consent to passing of an award at the rate of Rs. 73,000/-per acre. However, those records could not be produced as they were burnt by fire. Under those circumstances, the Housing Board sought an opportunity to let in further evidence. It appears that the claimants also filed an application under Order XLI Rule 27 of the CPC for filing further evidence. In view of such petitions being filed, the High Court came to an opinion that the ends of justice require that the parties should be given an opportunity to let in fresh evidence. The High Court, thereafter, quashed the judgment under appeal and remanded the matter to the Reference Court with a direction to the parties to lead additional evidence.

8. This Court is rather constrained to observe that it is difficult to appreciate the reasoning given by the High Court to remand the appeals after entering into detailed findings running into more than 50 pages.

9. However, the matter is pending before this Court since 2002. The acquisition is of the year 1991. Therefore, about 20 years have elapsed since the initiation of acquisition proceedings and the matter has been kept pending in this Court for about 9 years. In between attempts were made for settling the controversy on the basis of an offer made by the landowners. The said offer was recorded by this Court in its order dated 15th November, 2007:

Learned senior counsel for the landowners has made a statement that his clients are prepared to accept a deduction of 70% as was found by the High Court. The Housing board may consider the offer and file an affidavit regarding the price which they are agreeable to pay to the land owners as compensation.

10. Again on 29th July, 2010 another offer was made by the landowners whereby they had agreed to a reduction of 75% of the market value fixed by the Reference Court. But that was also not accepted by the Board. The order dated 29th July, 2010 is set out:

After the arguments were heard for some time, the Court again suggested the parties to work out an amicable settlement of the rate on which deduction could be made from the price of the sale transactions (Exhibit 8 to 17) for the purpose of fixation of market value.

Mr. S. Balakrishnan, learned senior counsel appearing for the Karnataka Housing Board very graciously submitted that he will again impress upon the authorities to agree to a deduction of 75; instead of 70% as suggested by the learned

Counsel for the Appellants on an earlier occasion.

On the request of the learned senior counsel, the cases are adjourned to 12.08.2010.

11. Considering the facts and circumstances of this case and the long passage of time that has intervened, this Court is of the opinion that the ends of justice will not be served if the impugned order of the High Court of remitting the controversy to the Reference Court at this stage is allowed.

12. This Court is, therefore, of the opinion that the matter should be decided once and for all, having regard to the peculiar circumstances of this case and the time that has lapsed between the initiation of acquisition proceeding in 1991 and non-payment of the compensation to the landowners till date. Several substitution applications are on record to show that many of the original landowners have expired in the course of these proceedings.

13. Considering all these facts and the increasing value of the land and the decreasing value of money, this Court, in exercise of its jurisdiction under Article 142 of the Constitution, is of the view that the proposal of the landowners of agreeing to 75% deduction on the market value fixed by the Reference Court would meet the ends of justice. This Court, therefore, disposes of these appeals by directing the Housing Board to pay to the Appellants the amount of compensation as fixed by the Reference Court after imposing a deduction of 75%. The Appellants would also be entitled to all the statutory benefits on the aforesaid amount.

14. Such payment shall be made by the Karnataka Housing Board within a period of three months from date, failing which it will have to pay an additional interest of 9% from the date of expiry of the period of three months till the date of actual payment. The appeals are, thus, disposed of. No costs.