

(2002) 01 SC CK 0084

In the Supreme Court Of India

Case No : Civil Appeal 4437 and 4443 of 1996

Mohammad Aziz Rahaman and Others

APPELLANT

Vs

The Asst. Commissioner and Land Acquisition Officer, Yadgir,
Karnataka

RESPONDENT

Date of Decision : 31-01-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 16, 33

Citation : (2002) 2 JT 170

Hon'ble Judges : V. N. Khare, J;Ashok Bhan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. A large tract of land measuring 88 acres, 11 guntas situated within the municipal limits of Shahpur in the district of Gulberga, was proposed to be acquired by the Government of Karnataka, for establishing a government degree college. For that purpose, a notification u/s 4 was issued on 10th March, 1988. The said notification was followed by a declaration u/s 6 of the Act, issued on 20th April, 1988. The appellant's land was covered by the aforesaid notifications. The land acquisition officer awarded compensation to the appellants at the rate of Rs. 6,800/- per acre. The appellants were not satisfied with the said offer of compensation. For that purpose, they sought reference before the civil court. The learned civil judge enhanced the compensation to Rs. 1,05,000/- per acre. Aggrieved, the State of Karnataka preferred a first appeal before the High Court. The High Court arrived at the market value of the acquired land at the rate of Rs. 78,750/- per acre and thereafter deducted 53 per cent out of the said amount towards development charges. With the result, the compensation that was made payable to the appellants was Rs. 37,013/- per acre. Aggrieved, the appellants preferred this appeal.

2. Learned counsel for the appellants urged that the view taken by the High Court in reducing the compensation was contrary to the evidence on record and,

therefore, the judgment under challenge deserves to be set aside. We find substance in the argument. It may be noted that before the High Court, the claimants relied upon two judgments of the High Court for arriving at the market value of the acquired land. The first judgment of the High Court was with reference to notification dated 7.9.1978. In the said judgment, the High Court fixed the market value of the land adjoining to the acquired land at the rate of Rs. 52,500/- per acre after deducting 50% of the retail value on the method of valuation adopted therein. The said judgment was affirmed by this Court. The second judgment of the High Court was with respect to the land adjoining to the acquired land with reference to notification dated 29.8.1983. In the said judgment, the High Court adopted 1978 market rate as the basis for fixing the market value of the acquired land and added 7% of rise in value of land from 1978 to 1983. Thus, the market value of the land acquired was arrived at Rs. 71,000/- per acre. This judgment was accepted by the state government and was not appealed against.

3. In the present case, we find that there was a constant trend of upward rise in the price of land since 1978 to 1988. If we adopt 1983 market value of the land as the basis for arriving at the market value of the acquired land and add 5% instead of 7% upward rise in price of the land, the market value of the acquired land in the year 1988 would be nearly 95,000/- per acre. This is not disputed by the parties. We are, therefore of the view that the market value of the acquired land or the date of notification issued u/s 4 of the Act in the year 1988 was Rs. 95,000/- per acre. In that view of the matter, the judgment of the High Court deserves to be set aside. We order accordingly.

4. The appeal is allowed. There shall be no order as to costs.