
(1999) 08 MP CK 0018
In the Madhya Pradesh High Court
Case No : F.A. No. 111 of 1996

M.P. Grih Nirman Mandal, Sidhi	Vs	APPELLANT
Mira Anil Pratap Singh and others		RESPONDENT

Date of Decision : 05-08-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4(1), 6

Citation : (2000) 2 MPLJ 24

Hon'ble Judges : Usha Shukla, J; Miss, J; D.M. Dharmadhikari, J

Bench : Full Bench

Advocate : Rajesh Pancholi, for the Appellant; R.N. Singh with R.K. Gupta, for the Respondent

Final Decision : Allowed

Judgement

D.M. Dharmadhikari, J.

The judgment passed in this case shall also decide the connected appeals i.e. First Appeal Nos. 112, 113, 114, 115, 116, 117 and 118 of 1996 as they relate to a common notification for acquisition of land under the provisions of Land Acquisition Act.

The agricultural land bearing survey Nos. 566, 560, 561, 562, 653, 564, 657, 652, 565, 563, 659 and 567 to the extent of area held by each of the claimants in this batch of petitions (total area 3.429 hectares) of village Jamodi Khurd near Sidhi municipal town was acquired by the appellant M. P. Housing Board for construction of a housing colony. Earlier, a notification u/s 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was issued on 18-11-1988 which was followed by a notification u/s 6 of the Act. Since within two years no award was passed, the land acquisition proceedings lapsed in accordance with section 11(a) of the Act. A fresh notification for acquisition of the same land for the second time was issued and published on 4-10-1991 which is the relevant date for deciding the market value of the lands acquired.

The Land Acquisition Officer, Sidhi by his award dated 31-7-1992 determined the rate of compensation for first grade of land on the basis of its quality of soil at Rs. 14,000/- per acre and second grade of land at Rs. 10,000/- per acre. The Land Acquisition Officer proposed separate compensation for the value of the trees standing on the acquired land and the constructions thereon. The claimants then sought a reference u/s 18 of the Act to the Civil Court seeking enhancement of the amount of compensation. The Civil Court i.e. the Court of First Additional District Judge, Sidhi by his impugned order dated 23-12-1995 held that the acquired land had potentiality as a building site. The Court determined the compensation at the rate of Rs. 5/- per sq. ft. and after determining the value on that basis deducted 1/3rd value for the purpose of plotting and development of the land for its use as a potential building site and thus arrived at a compensation of Rs. 4,36,631.25p. in the case of Smt. Meera Singh. Similar awards on the same valuation have been passed in cases of other claimants which are subject matter of connected appeals.

Aggrieved by the enhancement of compensation made by the reference Court by its order dated 23-12-1995 in each of the cases, the appellant-Housing Board has approached this Court in this appeal u/s 54 of the Land Acquisition Act.

Shri Rajesh Pancholi, Learned Counsel appears for the Housing Board in all the appeals and after taking this Court through the documentary and oral evidence on record contended that the Civil Court committed a serious error in holding that the agricultural land acquired had a potentiality as building site. It is submitted that it could not have been lost sight of that earlier notification for acquisition by the Housing Board was issued on 18-11-1988 and after two years due to failure of passing of the award the acquisition lapsed. The land owners in the village had come to know that the Board was likely to acquire the land for their housing scheme. It is submitted that some small pieces of land sold were not genuine sales and have been manipulated by the land owners themselves to claim higher amount of compensation. The price increase after the first notification dated 18-11-1988 till the second notification dated 14-10-1992 should be disregarded.

It is then urged on behalf of the appellant that the land should have been valued as agricultural land and the Land Acquisition Officer was fully justified in determining the value of the land as agricultural land on the basis of available sale deeds which were of the lands of the same village and executed near about the date of preliminary notification. It is also contended that the reference Court committed a grievous error in determining the value of large tract of agricultural land on the basis of sale of small pieces of land on square-foot basis. Several cases were cited at the bar of which discussion will be made in the following paragraphs.

Shri R.N. Singh, learned senior counsel, and Shri K. P. Mishra, Advocate, appeared for the land owners in this batch of petitions. On behalf of the land owners oral and documentary evidence was relied to contend that the land being

earlier included in the Special Area Development Authority and subsequently in the Municipal Council, Sidhi, and being nearer to the Sidhi town was rightly held to be a land with potentiality as building site. It is submitted that the Civil Court after examining the evidence on record rightly came to the conclusion that the value of the land on the date of preliminary notification could not have been less than 5 rupees per sq. ft.

The first question that needs decision is whether the evidence on record justifies the conclusion of the Civil Court that the land acquired had a potentiality as building site. The Land Acquisition Officer in his award has stated that the acquired land does not abut the Rewa Sidhi highway and in between there is land of village Karondiya. The maps produced on record do not reveal the correct position but after reading the oral evidence of the parties on record it is undisputed that the acquired land is also not very far from Sidhi municipal town and has been found suitable as extension of Sidhi town by the Housing Board which acquired the land for developing a housing colony. The Land Acquisition Officer also records that most of the acquired land is not very fertile. Part of the land was also got diverted for non-agricultural use. The Rewa-Sidhi highway may not be touching the land acquired and is separated by the land, of Karondiya village, but it is approachable from the Rewa-Sidhi highway. There are construction activities near about such as Divisional Office of Electricity Board, saw mills, pole factories, etc. The contention advanced on behalf of the Housing Board cannot be accepted that since there were two preliminary notifications, the escalation of price, if any, between the first and second notification has to be ignored. u/s 23 of the Act, the market value of the land on the date of preliminary notification i.e. 4-10-1991 in this case has to be determined and the market value existing on the date of first notification i.e. 18-11-1988 under which earlier acquisition proceedings lapsed has no relevance. Since there was earlier notification for the housing scheme of the Board, the possibility of escalation of price of the acquired land as building site can be envisaged as a natural consequence. As has been mentioned above, the land is not very fertile for agricultural purposes. It is near the municipal town Sidhi. In our considered opinion, therefore, the reference Court took relevant factors into consideration to come to a conclusion that the land acquired has potentiality as building site. We rely on the case of the Supreme Court in *Land Acquisition Officer, Eluru and Others Vs. Jasti Rohini (Smt) and Another*, which contains observations on the factors relevant for deciding the question of potentiality of an agricultural land as building site.

Before we proceed to examine the evidence led by the parties on the market value of the land, at the outset it is necessary to reiterate few settled propositions of law. First is that it is not fair to value large areas on the basis of sale price of small areas and vice-versa unless there are compelling reasons for doing so. Stray sales of small pieces of land on square foot basis are not safe guide to determine the market value of large tract of agricultural land. [See: *The Collector of Lakhimpur Vs. Bhuban Chandra Dutta, and Mahabir Prasad Santuka*

and Others Vs. Collector, Cuttack and Others, .

The second settled view is that even agricultural land with potentiality as a building site has to be valued as agricultural land normally on acreage basis and not on square-foot basis because an undeveloped agricultural land can become a potential building site only after it is developed as such with laying of plots, providing of roads and other civic amenities such as water, electricity, etc.

We shall now proceed to consider the evidence on record to decide whether the reference Court was justified in enhancing the compensation and making an award at the rate of Rs. 5/- per sq.ft. On behalf of the claimants reliance has been placed on three sale deeds Ex. P/1 to Ex. P/3 and each one of them is required to be examined critically to find out whether it can provide a sound basis for valuation of the land acquired.

By Ex. P/1 dated 4th of December, 1980 a small piece of land area 10" x 10" i.e. 100 sq. ft. in Survey No. 563 of village Jamodi Khurd was sold for a sum of Rs. 500/- . The sale in question is of a very small strip of land with no evidence as to for what purpose such a small piece of land was purchased -may be for stocking agricultural yield or for cattle-shed. The entire agricultural land acquired to the extent of 3.429 hectares cannot be safely valued on the above basis. The sale deed also does not show that 10" x 10" of land was sold for any housing purposes. There is likelihood that it was sold only for agricultural purposes.

The second sale deed is Ex. P/2 dated 14th of December, 1990 of a small strip of 10" x 15" of land from survey No. 566 for a sum of Rs. 3000/- . The sale is effected by one of the claimants Arun Singh. The Land Acquisition Officer has rightly described the above sale as not being genuine. The reasons assigned by him for rejecting the same are reasonable. Arun Singh, one of the land owners and claimants in these cases, had knowledge of the earlier notification of acquisition of the land by the Board which had lapsed. It is not apparent from the sale deed as to how a small strip of 10" x 15" area of land locked and not approachable from any side would have been sold on square-foot basis. The consideration of Rs. 3,000/- as mentioned in the sale deed had already been paid. The vendee Ramanuj Pratap Singh is found to be a relation of the vendor Arun Singh. The sale deed Ex. P/2 was, therefore, rightly rejected by the Land Acquisition Officer as a speculative sale by one of the claimants only to create a basis for claiming higher amount of compensation on square-foot basis for the land acquired.

The third sale deed Ex. P/3 dated 19-8-1991 on which reliance has been placed by the claimant whereby a small strip of land 12" x 15" was sold for Rs. 9,000/- is not relevant for the purpose of valuation of the land acquired by the Board as the abovementioned strip of land was sold in village Karondiya which, as has been mentioned above, is contiguous to the State Highway Rewa - Sidhi. The Land Acquisition Officer has recorded the fact that land of village Karondiya abuts the Highway whereas the land acquired in village Jamodi Khurd is farther from

the highway as in between lies the agricultural land of village Karondiya. The sale deed Ex. P/3 of village Karondiya is, therefore, not very relevant for deciding the question of valuation of the land acquired.

The valuation made by the reference Court on the basis of the stray sales of small pieces of land has, therefore, to be rejected. From the reading of the impugned award of the reference Court it is not understandable as to how, having determined the value of land on square-foot basis, it came to the conclusion that the value of the land is at Rs. 5/- per sq.ft. and the total value has to be reduced by giving deduction to the extent of 1/3rd for development and plotting of the land. As we have not found any of the three sale deeds Exs. P/1 to P/3 as indicative of market value of the large tract of undeveloped agricultural land, we do not subscribe to the reasoning adopted by the reference Court in determining valuation of the land in paragraph 9 to 12 of its order.

We are now left with the three sale deeds Ex. D/1 to Ex. D/3 produced in evidence and relied by the Land Acquisition Officer in his award, for determining the valuation of the land and arriving at the quantum of compensation at the rate mentioned above.

The first sale deed Ex. D/1 dated 1st of July 1991 of land in Survey Nos. 127, 512, 514 and 515 (total area 1.418 hectares = 3.50 acres) for a sum of Rs. 49,000/- of village Jomodi Khurd appears to be the safest guide for valuation of the land with the increase for potentiality of the acquired land of the same village as potential building site. The above sale is of the land of the same village and the date of sale i.e. 1st July 1991 is proximate to the date of notification i.e. 4th October, 1991. The other two sale deeds are of much earlier dates. Of the year 1987, the sale deed Ex. D/2 is of land in village Jamodi, bearing Survey No. 556 to the extent of 5 acres for Rs. 15,000/- . The third sale deed Ex. D/3 is of land in the same village of survey No. 458/1 and 456, area 1.70 decimal for Rs. 20,406/- dated 16-4-1984. Instead of relying on the much older sale deeds of the years 1984 and 1987, Exs. D/3 and D/2, we find that the safest basis would be to rely on the sale deed Ex. D/1 which is dated 1st of July, 1991 and is the only sale deed of the same village proximate to the date of notification.

Learned Counsel for the land owners contended that sale deeds Exs. D/1 to D/3 relied upon on behalf of the Housing Board has no evidentiary value as except for producing the certified copies of those sale deeds through Record Keeper of the Registration Office, R. S. Parihar (N.A.W. 1), they have not proved the sale deeds by examining the concerned vendors and vendees for establishing genuineness of the sale and passing of consideration. We find no merit in this contention in view of the provisions contained in section 51A of the Act which allows the parties in land acquisition cases to produce certified copies of the documents registered under the Registration Act as evidence of transaction recorded in such documents. It is true that mere production of certified copies of registered documents are not necessarily acceptable by the Court as evidence of transactions recorded in such documents and the Court is not bound to act upon

the same, but it has been observed by the Supreme Court in the case of P. Ram Reddy and Others Vs. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad and Others, as under:--

"But when the Land Acquisition Officer or the Collector has made his award based on the contents of documents as found in the registers kept under the Registration Act and produced registration copies of such documents in support of his award in Courts, they could be regarded acceptable as evidence by Court given in support of the award unless it is shown by contra-evidence on behalf of the claimants that such documents could not have been relied upon by the Collector or Land Acquisition Officer in making the award. It would be so for the reason that when the LAO produces in Court registration (certified) copies of those documents which he had made the basis for determining the market value, that would be only to support his award and not to establish something independent of the award. If that be so, when such documents are produced on behalf of the LAO in Court, they cannot be rejected on the ground that the witnesses associated with those documents cannot be examined by the LAO inasmuch as even without producing such documents he can rely upon the award made by him to show that he had looked into those documents and he had determined the market value on their basis."

In the instant case, the Land Acquisition Officer in his award has specifically made a reference to the sale deed Ex. D/1 for area 3.50 acres sold for Rs. 49,000/- to determine the per acre value at Rs. 14,000/- .

In conclusion, therefore, Ex. D/1 would be the safest guide for valuation of the acquired land on the basis of market value on the date of the notification. The Land Acquisition Officer has valued the land purely as an agricultural land. As we have held above, the reference Court was justified in holding that the value of the agricultural land with potentiality as building site has to be more.

The question now is - if the value of the land on the basis of sale deed Ex. D/1 on the date of notification is taken to be little more than Rs. 14,000/- per acre, say Rs. 20,000/- , what should be the increase of price due to its potentiality as building site. In the case of P. Rama Reddy (supra) it has been observed that an undeveloped agricultural land with potentiality as building site has to be valued by increasing the agricultural value by not exceeding 1/5th of its market value as agricultural land. See: the following observations of the Supreme Court in P. Rama Reddy (supra):--

"Where no evidence of price fetched by the sale of plots in lay outs of building plots in the neighbourhood of the acquired lands becomes available then what could be done is to find out the market value of the acquired land with reference to the relevant date of publication u/s 4(1) of the L. A. Act., according to the actual use to which it was put and increase its value by a small percentage having regard to the degree of its building potentiality ascertained on the basis of evidence to be made available in that regard. A small percentage increase to be

given shall not exceed 1/5th of the market value of the land found out according to its actual user since resort to the method of giving increased value for such building potentiality arises only when there is no evidence of sales of building plots in the neighbourhood of the acquired land indicating that there was no immediate demand, as such, for building plots even if formed in the acquired land."

In the instant case, taking sale deed Ex. D/1 dated 1st July, 1991 as the basis for valuation of the land on the date of preliminary notification dated 4-10-1991 of the value of Rs. 20,000/- per acre, for its potentiality as building site 1/5th increase per acre will have to be given to arrive at the figure of value at Rs. 24,000/- per acre which could be the fair and just compensation liable to be awarded to the land owners.

Consequently, this appeal and the connected appeals preferred by the Housing Board partly succeed. The impugned order/award of the reference Court dated 23-12-1995 in each of the cases is modified by directing that for the land acquired, the land owners will be entitled to the amount of compensation at the rate of Rs. 24,000/- per acre. On the amount of compensation to be determined at the rate mentioned above, the land owners would be entitled to 12% additional compensation u/s 23(1A) from the date of notification till the date of taking possession or till the date of deposit into Court. The claimants would also be entitled to solatium u/s 23(2) of the Act at 30% and interest u/s 28 at 9% on the enhanced compensation from the date of taking possession for one year and 15% after the expiry of one year till the date of deposit into the Court. For the aforesaid award, we rely on Land Acquisition Officer, Eluru and Others Vs. Jasti Rohini (Smt) and Another, . The rest of the award in case of the each of the claimants towards payment for the trees and super structures etc, is maintained. In view the partial success of the Housing Board in this appeal, we leave the parties to bear their own costs in this appeal.