
(2011) 03 SC CK 0117
In the Supreme Court Of India
Case No : C.A. No. 6253 of 2010

Ram Kumar Tiwari and Others

APPELLANT

Vs

Nager Sudhar Nyas Gwalior Development Authority

RESPONDENT

Date of Decision : 14-03-2011

Acts Referred:

Madhya Pradesh Town Improvement Trust Act, 1960 — Section 147, 72(3)

Citation : (2011) 2 MPJR 80

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

Bench : Division Bench

Advocate : Madhukar Rao, for the Appellant; Parmanand Gaur, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is directed against order dated 16.7.2009 of the Division Bench of Madhya Pradesh High Court whereby the appeal filed by the Appellants u/s 147 of the Madhya Pradesh Town Improvement Trust Act, 1960 (for short, 'the Act') was partly allowed and market value of the land acquired by Gwalior improvement Trust/Gwalior Development Authority (hereinafter referred to as 'the Respondent') was fixed at the rate of Rs. 2/- per square feet and the latter was directed to pay compensation with interest at the rate of 12% per annum on the enhanced amount compensation from the date of notification and solatium at the rate of 15%.

2. Shri Atmaram (predecessor of the Appellants) owned land measuring 5 Bighas 13 Biswas situated at Keshobaagh, Gwalior. The same was acquired for execution of the residential scheme framed by the Respondent. Shri Atmaram did not accept the compensation offered by the Respondent. Therefore, a reference was made u/s 72(3) of the Act to the joint Tribunal of All Town Improvement Trusts of Madhya Pradesh (for short, 'the Tribunal'). The Tribunal considered the rival pleadings and evidence and vide award dated 30.12.1991, fixed market value of the acquired land at 10 Annas per square feet and held that the owner is entitled

to compensation of Rs. 61,526/- with 6% interest and 15% solatium. The appeal preferred by Shri Atmaram was disposed of by the Division Bench of the High Court vide judgment dated 31.8.1995 and the matter was remanded to the Tribunal in the following terms:

We therefore, direct that subject to the decision on the claim for enhanced compensation to be decided by the Tribunal under this order of remand, the Respondent - trust, which is now succeeded by Gwalior Development Authority by merger, should pay the sum of Rs. One Lac to the Appellant - Claimant within two months from today. It is further directed that the Tribunal shall make every endeavor to decide the case finally within a period of six months.

After remand, the District Judge, Gwalior passed order dated 24.4.2002, the operative portion of which reads thus:

As such this Award is passed herein that Referencer will pay compensation @ Rs. 1.50 per sq. ft. to claimant in lieu of their land acquired and will pay interest @ 9% per annum and solarium @15% on such amount. In compliance to order dated 3.8.95 passed by Hon'ble High Court in Appeal No. 41/93, the amount of Rs. 1.00 Lakh deposited by them shall be adjusted legally and in same ratio on balance amount claimant will receive interest. Keeping in view the facts and circumstances of the case the parties will bear their own cost. On verification counsel fee as per rule Rs. 750.00 is allowed.

3. Feeling dissatisfied with the order of the District Judge, the Appellants filed and appeal u/s 147 of the Act., The Division Bench of the High Court, Considering the fact that the land was acquired in the year 1978, partly allowed the appeal and fixed the market value of the land at the rate of Rs. 2/- per sq. ft. and directed payment of compensation with interest at the rate of 12% per annum and 15% solatium.

4. Shri Madhukar Rao, learned senior counsel for the Appellants relied upon judgment dated 26.7.2010 in Civil Appeal Nos. 9525 and 9529 of 2003, Shashikant Bansal v. Gwalior improvement Trust/Gwalior Development Authority and argued that his clients are entitled to benefits in terms of that judgment.

5. No one had appeared on behalf of the Respondent.

6. We have considered the argument of the Learned Counsel. In Shashikant Bansal's case, this Court held that deduction of 25% towards development cost was legally unsustainable and that the Appellant is entitled to benefit of the law laid down in *Sunder Vs. Union of India*, *Balammal and Others Vs. State of Madras and Others*, *Nagpur improvement Trust and Anr. v. Vithal Rao and Ors.* AIR 1973 SC 689 and *Maharashtra State Road Transport Corporation Vs. State of Maharashtra and Others*,

7. In our view, the Appellants are entitled to solatium and interest in terms of the judgments in *Sunder v. Union of India* (supra), *Balammal v. State of Madras* (supra), *Nagpur improvement Trust and Anr. v. Vithal Rao and Ors.* (supra) and

Maharashtra State Road Transport Corporation v. State of Maharashtra (supra).

8. In the result, the appeal is allowed the Respondent is directed to pay compensation together with solatium and interest on solatium in terms of the judgments noted above. The Respondents shall do the needful within two months from the date of receipt/production of the copy of this judgment.