

(1995) 11 SC CK 0137

In the Supreme Court Of India

Case No : Civil Appeal No. 3279 of 1984

Ratan Lal Gupta and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 21-11-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (1996) 1 AD 203 : (1995) 9 JT 106 : (1995) 6 SCALE 698 : (1996) 7 SCC 3 : (1995) 5 SCR 534 Supp

Hon'ble Judges : K. S. Paripoornan, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : Mukul Mudgal and Tripurari Ray, for the Appellant; S. Wasim A. Qadri, for the Respondent

Final Decision : allowed

Judgement

1. The application for substitution is allowed.

2. Notification u/s 4(1) of the Land Acquisition Act, 1874 (for short 'the Act') acquiring, land admeasuring about 5.29 acres (28 bighas) comprised in Khasra No. 351/305/162 etc. situated in Yaquatpur, Delhi for the planned development (was published in the Union Gazette on February 4, 1964). The Collector in his award dated May 26, 1965 determined compensation at Rs. 5,000 per bigha together with 15% solatium and interest @ 6%. The Additional District Judge by his award and decree dated August 5, 1969, determined the compensation at the rate of Rs. 30 per square yard. On further appeal u/s 54 of the Act, the learned single Judge determined market value at: Rs. 78 per sq. yard, deducted Rs. 7 for development charges, fixed the land available as per the lay out at 78.45% of the land areas saleable for plots. The learned Judge further held that market value for undeveloped area was Rs. 23 per square yard while for the developed area in Greater Kailash Part-I, the market value came to Rs. 39.34 per square yard. On application of the average, the learned Judge fixed the market value at Rs. 40 per square yard. On Letters Patent Appeal, the Division Bench in the

impugned judgment and decree dated August 26, 1981 dismissed the appeal. Thus this appeal by special leave.

3. Shri Mukul Mudgal, learned Counsel appearing for the claimant, contended that the learned single Judge having found that a sum of Rs. 7 per square yard would be required for development charges of the saleable land of 78.45% as per the lay out, committed an error of law in fixing average price of developed and undeveloped land at Rs. 40 per square yard. Having determined the market value at Rs. 78 per square yard and having deducted an amount towards development charges and also determined the saleable plots of land at 78.45% of the land, he committed an error of law for further reducing the market value. Thus the learned single Judge has applied wrong principle of law warranting interference.

4. The question, therefore, is what would be the correct market value that could be fixed as compensation of the land in question. It is seen that strong reliance was placed before the Reference Court on the sale transaction relating to developed area and undeveloped area. In the undeveloped area, the market value was Rs. 23 per square yard and in the developed area, the market value was Rs. 39.34 per square yard. It is seen that the High Court found these lands connected with developed roads.

5. It has been repeatedly held by a catena of decisions of this Court that when the market value is to be determined on the basis of small plots of land the same price cannot be expected to be realised when a large track of land is offered to a willing purchaser by a willing vendor. When lay out has been obtained and the land is situated in a developed area, though sale relating to small plots of lands were produced before the Court, on recording a finding that such sales are genuine and not intended to inflate the market value of the land, this Court held that necessary directions should be given in determining the true market value based on resalable price at a future date.

6. It is an admitted fact that the lands in question are in undeveloped area though adjacent to the developed area, viz., Greater Kailash-I. The average price given by the Court also does not appear to be correct. In *Administrator General of West Bengal Vs. Collector, Varanasi*, this Court had laid the principle of deduction of when small plots of land were found to be of genuine sale and situated in a potentially developed area as a wholesale price. In *Hasanali Khanbhai and Sons and Others Vs. State of Gujarat*, this Court also considered all the earlier cases and held that the small extents of land sold in plots, would not furnish the sole basis to fix same price offered by them. Therefore, the deduction of 60% of the value per square yard by the High Court was upheld by this Court. It is seen that since the lands in question are situated in undeveloped area, though adjacent to the road, it would take long time for realisation of potentialities as they would require further development. Considered from this perspective, the price of the developed area cannot be adopted ipso facto as the basis to determine compensation to these lands. Considered the facts that the

land required development and having deducted 78.45% land which was required for building purposes, we think that proper market value would be Rs. 50% per square yard. The appellants, therefore, are entitled to be compensated at that rate with interest at the rate of 6% on the enhanced compensation from the date of taking possession till the date of deposit into the Court. The claimants also are entitled to solatium @ 15% on the enhanced compensation.

7. The appeal is allowed but, in the circumstances, without costs.