
(2019) 06 MP CK 0001

In the Madhya Pradesh High Court

Case No : First Appeal No. 1151, 1157, 1159, 1160, 1162 Of 2018

State Of Madhya Pradesh And Another.

APPELLANT

Vs

Mangibai And Ors

RESPONDENT

Date of Decision : 26-06-2019

Acts Referred:

Land Aquisition Act, 1894 — Section 4, 4(1), 18, 23(1A), 54

Citation : (2019) 06 MP CK 0001

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Pawan Sharma

Final Decision : Dismissed

Judgement

1. The State of M. P. has filed the present appeal under Section 54 of the Land Acquisition Act [in brief "the Act"] by which the amount of compensation vide award dated 9.10.2017 has been enhanced by Rs.59,400/-. Accordingly, the appellants valued this appeal.

2. The State Government issued a Notification under Section 4 (1) of the Act on 20.6.2003 for acquisition of certain land of Village Labriya coming into submergence in a Mahi Dam Project. At the time of acquisition, certain temporary houses were there over the land. The respondent was in possession in one of the house which was acquired and compensation was assessed. The Land Acquisition Officer had awarded the less amount of compensation. The land owner/respondent claimed the compensation @ Rs.3,000/- per sq.ft. for 10x10 sq.ft. of house along with interest @ 12% and solatium @ 30%. Being dissatisfied with the award passed by the Land Acquisition Officer, the land owner/respondent sought a reference under Section 18 of the Act. Before the Reference Court, the respondent/land owner submitted a certified copy of the guidelines issued by the Deputy Registrar, Sardarpur of the year 2003-2004. Copy of sale-deed dated 29.03.1999 and copy of the award passed in one of the Land Acquisition Case were filed by the respondent. After assessment of the

evidence, the learned Reference Court has held that the house was constructed over 24.75 Sq.mtr. of land and as per the Collector's guidelines, the rate of land was Rs.600/- per Sq.mtr. hence value comes to Rs.14,850/-. Accordingly, the Reference Court has enhanced the compensation of Rs.59,400/- along with interest under Section 23 (1-A) of the Act and the solatium.

3. The Reference Court after assessing the evidence and verifying the report submitted by the Engineer and the guidelines of the Collector has rightly assessed the cost of the construction of Rs.44,550/- and value of land Rs.14,850/-. Para 53 and 54 of the Award of Reference Court are reproduced below :-

53. अनावेदक द्वारा प्रस्तुत दस्तावेज के आधार पर आवेदक का निर्मित भवन $5.50 \times 4.50 = 24.75$ वर्ग मीटर है, जिसमें 24.75 वर्ग मीटर का प्लॉट एवं उस पर इतने ही क्षेत्र में भवन निर्मित है। भवन का स्वरूप कच्चा होने से केलेक्टर द्वारा दी गई गाईड लाईन के अनुसार 600 रूपय प्रतिवर्ग मीटर प्लॉट की कीमत एवं प्रदर्श डी-5 के अनुसार आवेदक का मकान कच्चा होकर उस पर इंग्लिश कवेल उल्लेखित होने से प्रदर्श पी-2 की गाईड लाईन अनुसार रूपय 1,800 प्रतिवर्ग मीटर दी गई है, जिससे निर्धारित किया जाता है, जिसके अनुसार आवेदक निम्नानुसार मदों में राशि पाने का अधिकारी है:-

प्लॉट के क्षेत्रफल के लिये

$24.75 \times 600 =$

14,850/-

उस पर बने भवन के लिये

$24.75 \times 1800 =$

44,550/-

कुल योग रूपय

59,400/-

54. अतः उपरोक्त आधार पर आवेदक की अधिगृहित कच्चे मकान के लिये प्लॉट क्षेत्रफल हेतु 600/- रूपय प्रतिवर्ग फीट एवं उस पर बने मकान के लिये 1,800/- प्रतिवर्ग फीट के अनुसार आवेदक, अनावेदकगण से रूपय 59,400/- पाने का अधिकारी है एवं आवेदक उपरोक्त निर्धारित मूल्य पर अधिनियम की धारा 23(2) के अन्तर्गत 30 प्रतिशत की दर से तोषण राशि तथा धारा 23(1-ए) के अन्तर्गत अधिसूचना दिनांक-20.06.2003 से भू-अर्जन अधिकारी द्वारा पारित अवार्ड दिनांक- 29.10.2004 तक की अवधि के लिए उपरोक्त निर्धारित बाजार मूल्य पर 12 प्रतिशत प्रति वर्ष की दर से अतिरिक्त वृद्धि भी प्राप्त करने का अधिकारी हैं।

4. That the respondent sought the reference for enhancement of compensation, then the burden was upon him to prove his case by adducing reliable evidence and also to establish that the compensation offered by the Land Acquisition Officer is inadequate and the lands are capable of fetching higher market value. In case of *Basant Kumar v/s Union of India* : (1996) 11 SCC 542; *Special Land Acquisition Officer v/s Karigowda* : (2010) 5 SCC 708 and *Ahmedabad Municipal Corpn. v/s Sharadaben* : (1996) 8 SCC 93, the apex Court has held that it is for

the appellant to prove his case if he is claiming enhancement of a compensation granted by the Land Acquisition Officer. It is the duty of the Court to scrutinize the evidence and apply the test of prudent and willing purchaser whether he would be willing to purchase in market the said very land. In the case of Hookiyar Singh v/s Special Land Acquisition Officer : (1996) 3 SCC 766, it has been held that the Court must not indulge in the feats of imagination but consider the very fact that the prudent purchaser in open market is ready to purchase the said land at the rate claimed by the claimants. It has also been held by the apex Court in the case of G.Narayan Rao v/s Land Acquisition Officer : (1996) 10 SCC 607 that the claimants must establish that at the time of date of notification under Section 4 of the Act of 1984, any buyer or purchaser were available. The similar view has been followed in the case of State of U.P. v/s Ram Kumari Devi : (1996) 8 SCC 577. In the case of Gujrat Industrial Development Corporation v/s Narottambhai Morarbhai : (1996) 11 SCC 159, the apex Court has observed that the criteria and rate for sale of small piece of land and big area of the land are always different. The small plots are easily saleable at higher rate; whereas the large area of the plots do not get the higher rates. Therefore, while assessing the compensation, the Reference Court has applied mind and rightly enhanced the compensation.

5. For the purpose of calculation of compensation and to arrive fair market value of agricultural land various facts and circumstances of the case are liable to be consider by the court. The Court must exercise its discretion by adopting different methods; like (a) Sales statistics method; (b) Capitalisation of net income method; and (c) Agricultural yield basis method as held by the Supreme Court in the case of Special Land Acquisition Officer v/s Karigowda : (2010) 5 SCC 708.

6. The learned reference Court did not committed any illegality in enhancing the amount of compensation in light of the above judgement passed by the Apex Court.

7. I do not find any perversity in the Award passed by the Reference Court. It is also important to mention that the State ought not to have filed the appeal for the amount of Rs.59,400/- when residence house of the respondent has gone into submergence.

The appeal is accordingly dismissed.