

(1969) 09 SC CK 0015

In the Supreme Court Of India

Case No : Civil Appeal No. 1252 of 1966

State of Madhya Pradesh

APPELLANT

Vs

Brijmohandas and Others

RESPONDENT

Date of Decision : 01-09-1969

Acts Referred:

Citation : (1969) 2 UJ 627

Hon'ble Judges : V. Ramaswami, J;M. B. Shah, J;A. N. Gover, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Ramarwami, J.—This appeal is brought by certificate from the judgment of the High Court of Madhya Pradesh dated October 5, 1962 in First Appeal No.4 of 1960 from the order of the Third Additional District Judge, Bhopal, dated May 1, 1959 in a reference made u/s 18 of the Land Acquisition Act, 1894 (hereinafter called the Act).

2. The respondents purchased the property in dispute in 1955 for Rs. 10,500/-. The property consisted of land measuring 4846 sq. yds. and a bungalow. Two notifications Nos. 65-A dated June 19, 1956 and 73-A dated July 25, 1956 were issued by the Chief Commissioner of the erstwhile Bhopal Government under Sections 4(1) and 6(1) of the Act. On September 21, 1956 the Director of Land Records issued a notice u/s 9 of the Act calling upon the respondents to file their claim for compensation. The respondents filed their claim on September 27, 1956. By his award dated October 31, 1956 the Land Acquisition Officer valued the property on the date of the notification u/s 4 of the Act, namely, June 19, 1956 as follows :

"Land at Rs. 3 per square yard . . . Rs. 14,538/-

Building at Rs. 14,273/- . . . 14,273/-

Compensation for compulsory acquisition at 15% under sec. 23(2) of the

Act . . . 4,321/-

Total . . . 33,132/-"

The aforesaid compensation was paid to the claimants on November 12, 1956 and was accepted by them under protest. On a reference being made to the Additional District Judge, Bhopal, he valued the property at Rs. 40,250/- as follows :

valued the property at Rs. 40,250/- as follows :

"Land and building at Rs. 35,000 . . . Rs. 35,000/-

Compensation for compulsory acquisition at 15% . . . Rs. 5,250/-

Total . . . Rs. 40,250/-

He also awarded interest at 6 per cent per annum on the excess amount awarded by him from November 1, 1956 till the date of payment. Aggrieved by the order of the Third Additional District Judge, the respondents preferred an appeal to the High Court of Madhya Pradesh. In the said appeal the respondents claimed compensation as follows :

" (i) For the land at Rs. 20/- per sq. yd. . . . Rs. 96,920/-

(ii) For the building . . . 32,707/8/-

Total Rs. 129,637,8/-

Less : Awarded by the Additional District Judge, Bhopal

40,250/-/-

Enhancement claimed Rs. 89,377/8/-"

By its judgment dated October 5, 1962 the High Court allowed the appeal of the respondents and valued the land in dispute at Rs. 33,922/- that is, 4846 sq. yds. at the rate of Rs. 7/- per sq. yd. As regards the bungalow the High Court valued it at Rs. 28,782. 47 ps. In the result the High Court valued the land and bungalow at Rs. 62,704.47ps. Compensation at 15% was added for compulsory acquisition and the total amount payable to the respondents came to Rs. 72,110.14 ps. .

3. It is not disputed that the function of the court in awarding compensation under the Land Acquisition Act is to ascertain the market value of the land on the date of notification u/s 4(1) and the methods of valuation may be (1) opinion of experts, (2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages and (3) a number of years purchase of the actual or immediately prospective profits of the land acquired. In ascertaining the market value of the land on the material date the High Court adopted the second method in the present case and took into account three sale deeds Exs. C-5, C 3

and C-2. The High Court also kept in view the fact that the area of the suit plot was comparatively much larger and was not suitable for business but could be used for residential purposes only. The High Court also took into account the evidence of Mr. Maqsood Mohammad Khan who said that because of the situation the suit plot would sell for about Rs. 7 or Rs. 8 per sq. yd. on the date of the notification u/s 4. As regards the value of the building also the High Court took into account the opinion of the Overseer M.M. Khan C.W. 3 who estimated the cost of the building as it would have been on June 19, 1956 on the basis of the schedule or rates prescribed by the Public Works Department. There was no cross-examination of the witness on behalf of the respondents to show that his estimate was inflated or incorrect. In view of the fact that the building was 12 years old the High Court allowed depreciation at the rate of 1% per annum and held that the value of the building on the date of notification u/s 4 of the Act would be Rs. 28, 782. 47 ps.

4. Having heard the counsel for the appellants we are not satisfied that a case has been made out for interfering with the judgment of the High Court. It is well established that in appeal from award granting compensation, the Supreme Court will not interfere unless there is something to show, not merely that on the balance of evidence, it is possible to reach a different conclusion but that the judgment cannot be supported by reason of a wrong application of principal or because some important point affecting valuation has been overlooked or misapplied. In the present case it is not shown on behalf of the appellant that the judgment of the High Court is vitiated for any such reach.

5. Accordingly we hold that this appeal fails and must be dismissed with costs.