(2015) 04 MAN CK 0001

In the Manipur High Court

Case No : M.C. (MFA) Nos. 7, 8, 10, 12, 13, 14 of 2014 in M.F.A. Nos. 1, 9 and 11 of 2014 in M.F.A. No. 2 of 2014

State of Manipur and Others — APPELLANT

Vs

S. Tiken Singh and Others — RESPONDENT

Date of Decision : 02-04-2015

Acts Referred:
Land Acquisition Act, 1894 — Section 18

Citation : (2015) 04 MAN CK 0001

Hon'ble Judges : Laxmi Kanta Mohapatra, C.J.

Bench : Single Bench

Advocate : H. Raghumani Singh, G.A. and N. Jotendro Singh, for the Appellant; N. Umakanta Singh, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Laxmi Kanta Mohapatra, C.J.—The order dated 25.4.2011 passed by the learned District Judge, Manipur East in O.S. (L.A.) Case No. 1 of 2009 has given raise to these two appeals. MFA No. 1 of 2014 has been filed by the State of Manipur represented by the Under Secretary (Revenue), Govt. of Manipur and the Under Secretary (Higher and Technical Education), Govt. of Manipur; whereas MFA No. 2 of 2014 has been filed by the Deputy Commissioner/Collector, Land Acquisition, Imphal West District, Manipur.

2. The brief facts leading to a reference under section 18 of the Land Acquisition Act, 1984 (herein-after called the Act) are that the State Government of Manipur initiated a proceeding for acquisition of land measuring 54.1054 hectares in Revenue Village No. 91(A), Lamphelpat and Village No. 91-Meitei Langol for the purpose of establishing National Institute of Technology (NIT). In the proposed acquisition, the lands belonging to the respondents in both the appeals were also included. The Collector, Land Acquisition made an award on 7.6.2008. In paragraph -5 of the award, the market value was fixed at Rs. 30.47 per sq.ft. for Ingkhol class/homestead land and Rs. 7.55 per sq.ft. for agricultural land. Since

the acquisition was of compulsory nature, solatium of 30% and additional charge of 12% were also granted in addition to the market value of the land. The compensation in respect of the buildings was to be awarded at a later date. Not being satisfied with the market value fixed in the award passed by the Collector, Land Acquisition, the respondents filed an application under section 18 of the Act for a reference to the Court to consider their claim for higher compensation.

3. After the reference was made, the learned District Judge decided the compensation to be awarded to the respondents in the impugned order dated 25.04.2011. In the course of the proceedings before the learned District Judge, three witnesses were examined on behalf of the land owners/respondents and one witness was examined on behalf of the State authorities. Several documents were also exhibited in the course of the proceedings. The learned District Judge in the impugned order enhanced the market value of the lands belonging to the respondents which were acquired under the notification from Rs. 30.47 per sq.ft. to Rs. 140/- per sq.ft. The solatium and additional charge amount, i.e. interest as awarded by the Collector, Land Acquisition, remained unchanged.

3.1 Mr. H. Raghumani Singh, learned counsel for the State appearing for the appellants in MFA No. 1 of 2014 and Mr. N. Jotendro Singh, learned counsel appearing for the appellant, Deputy Commissioner/Collector, Land Acquisition, Imphal West District in MFA No. 2 of 2014, challenged the impugned order so far it relates to valuation of the land acquired under the notification, which had been enhanced from Rs. 30.47 per sq.ft. to Rs. 140/- per sq.ft. It was contended by both the learned counsel appearing for the appellants that the Collector, Land Acquisition had fixed the market value at Rs. 30.47 per sq.ft. after due enquiry and taking into consideration the nature of land and market value of such land in the vicinity. Therefore, there was no justification on the part of the learned District Judge to enhance the market value to Rs. 140/- per sq.ft.

4. Mr. N. Umakanta Singh, learned counsel appearing for the respondents in both the appeals submitted that so far as the respondents are concerned they were owners and in possession of the homestead lands which had been acquired under the notification. The lands belonging to the respondents which were acquired under the notification are located within the Municipal area of Imphal and therefore, fixation of market value at Rs. 30.47 per sq.ft. by the Collector, Land Acquisition was without any basis. According to the learned counsel for the respondents for fixation of land within the Imphal Municipal area, the State had fixed compensation @ Rs. 500/- per sq.ft. but the learned District Judge awarded only Rs. 140/- per sq.ft. It is, therefore, contended on behalf of the respondents that there is no justification for this Court to interfere with the value of the land fixed by the learned District Judge in the impugned order.

5. The only dispute in these two appeals is with regard to the valuation of the land acquired under the notification. The Apex Court in the case of Mohammad Raofuddin Vs. The Land Acquisition Officer, and in the case of Ravinder Narain and Another Vs. Union of India (UOI), observed that best method of finding out

the value of the land is comparable sale method. If such sale instances are not available, the other best method for calculation of the just compensation is to look into the award passed in a land acquisition proceeding relating to the lands adjacent to the present acquisition. In the case of Subh Ram and Others Vs. Haryana State and Another, , it was decided that if market value of a large tract of agricultural land or underdeveloped non-agricultural land possessing potential for development is to be determined with reference to market value of a development small residential plot situated in the neighbouring layout it becomes necessary to work back the market value of the large tract of underdeveloped lands from the market value of the small residential plot. In the case of The Land Acquisition Officer, Revenue Divisional Officer, Chittoor Vs. Smt. L. Kamalamma (Dead) by Lrs. and Others K. Krishnamachari and Others, it was decided that when land is acquired for the purpose of construction of residential houses, there cannot be difference in prices so far as lands located near the road/ village and the lands located away from the road and village are concerned. The value of land should be assessed without any such classification.

5.1. Keeping these decisions in mind, the evidence adduced before the learned District Judge is required to be analysed. PW1 is one of the respondents. He stated that he is the absolute owner in possession of Patta No. 210/804/2638(New) covered by C.S. Dag No. 1569/2464 (A) measuring about 0.0369 hectare situated at Village 91-Meitei Langol. The said land is Ingkhol class and situated 100 meter away from Shija Hospital and 10 meter away from Langol Laimanai Road and the present market value of the aforesaid land is Rs. 500/- per sq.ft. He further stated that his land is situated within the Imphal Municipal area and just 1 1/2 Km. away from the commercial area declared by the Revenue Department, Govt. of Manipur.

5.2. PW2 is also one of the respondents. He stated that the land belonging to him is of Ingkhol class situated 100 yards from Shija Hospital and just behind the main road of Langol - Laimanai Road. He also stated that his land is situated within the Imphal Municipal area and 1 1/2 Km. away from the commercial area declared by the State Revenue Department. PW3 is also another respondent whose land had been acquired and she also corroborated the evidence adduced by the respondents 1 and 2. On scrutiny of the cross-examination of these three witnesses, it is found that the suggestions given by the appellants were stoutly denied by all the witnesses. Therefore, on analysis of evidence of these witnesses, it is clear that the lands belonging to the respondents which were acquired under the notification are Ingkhol class lands and were also located within the Imphal Municipal area. It is also proved from their evidence that the acquired lands of these respondents are near about Shija Hospital and main road, i.e. Langol - Laimanai Road.

5.3. Only one witness was examined on behalf of the State appellants and at the relevant time, the said witness was working as an Assistant Commissioner. He stated in his evidence that the homestead lands had been assessed at Rs. 30.47

per sq.ft. by the Collector, Land Acquisition. In the cross-examination with reference to Exbt. A/11, he stated that the market price under Exbt.A/11 had been assessed at Rs. 377/- per sq.ft. as the land was located within the Municipal Area and under the said acquisition value of the lands located between Tera Bazar to Oriental College Gate which are in rural area was fixed at Rs. 150/- per sq.ft. He also admitted that under Exbt.A/4 land under Schedule-III, the market value has been fixed at Rs. 500/- per sq.ft.

6. With reference to documents relied upon by the claimants/respondents, it appears that the Government of Manipur had taken a decision regarding re-fixation of the rate of compensation on 25.8.2009 in relation to the lands acquired for widening of Imphal - Mayang Imphal Road; widening of NH-150 from Keishampat - Airport Gate; widening of HH-53 from Wahengbam Leikai - Oriental College Gate and widening Imphal - Kangchup Raod; from Maharani Bridge to Sorbon Thingel. The State Government decided to pay compensation @ Rs. 377/- per sq.ft. for the lands located within the Imphal Municipal area and @ Rs. 150/- per sq.ft. for the rural area.

7. Similarly, for acquisition of land for construction of telephone exchange at Lilong Bazar, compensation was decided to be paid @ Rs. 137/- per sq.ft. For acquisition of land of extension of NH-39 from Lilong Bridge to Pallel in Thoubal District a decision was taken to grant compensation at different rates ranging between Rs. 8 to 221.

7.1. The location of the present land acquired under the notification is at a distance of 100metre from Shija Hospital and Research Institute. This fact is not denied by the appellants. There is also no dispute that the lands belonging to the respondents acquired under the notification are homestead lands and within the Imphal Municipal area. Therefore, considering the compensations paid by the State in respect of the homestead lands located within the Municipal area of Imphal, fixation of market value at Rs. 30.47 per sq.ft. was definitely on a very low side. It was contended by the learned counsel appearing for the appellants in both the appeals that the lands belonging to the respondents are swampy lands and could not fetch higher market value. Even considering such submissions I find that the entire tract of the land had been acquired for establishment of National Institute of Technology which ordinarily would comprise of office buildings and quarters. Therefore, no classification of land can be made in terms of the decisions of the Supreme Court quoted earlier.

7.2 So far as the appropriate valuation of the acquired land is concerned as stated earlier, the State government had paid compensation at a much higher rate in respect of the lands acquired within the Imphal Municipal area. I have already referred to the decisions of the Government dated 25.8.2009 wherein the Cabinet decided to re-fix the rate of compensation for widening the some roads including NH-150 and NH-53 which are located within the Municipal Area of Imphal and Cabinet further decided to grant compensation of Rs. 377/- per sq.ft. for those lands located within the Municipal Area of Imphal. Therefore, under no stretch of imagination the valuation of the land fixed by the leaned District Judge at Rs. 140/- per sq.ft. can be said to be unreasonable or excessive. In absence of evidence with regard to any sale immediately prior to acquisition, comparable sale method could not be adopted and valuation of the acquired land has been done on the basis of compensation paid for earlier acquisitions near about the lands located under the present acquisition. This process of determining the valuation has been adopted by the learned District Judge. Therefore, there is no reason to interfere with the said finding.

8. No other points having been raised in these appeals, I find no justification to interfere with the impugned order of the learned District Judge. Consequently, both the appeals have no merit and are dismissed.

In view of the judgment and order dated 02.04.2015 passed in the connected MFA No. 1 of 2014 and MFA No. 2 of 2014 the misc. cases are disposed of.

