
(2014) 09 MP CK 0001
In the Madhya Pradesh High Court
Case No : First Appeal No. 86/2014

State of M.P.

APPELLANT

Vs

Shyam Sunder

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 23(1)(A), 23(2), 28, 34

Citation : (2014) 09 MP CK 0001

Hon'ble Judges : S.K. Palo, J;S.K. Gangele, J

Bench : Division Bench

Advocate : M.P.S. Raghuwanshi, Additional Advocate General, Advocate for the Appellant; Anand V. Bharadwaj, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. Heard.

2. Challenge has been made to the Award dated 31.07.2013 passed by the Additional Judge to the Court of First Additional District Judge, Datia, in MJC No. 10/2010. The non-applicant/State has filed this appeal u/s 54 of the Land Acquisition Act, 1984 (hereinafter referred to as the Act).

3. An Award was passed by the Land Acquisition Officer on 07.07.2007 with regard to the land bearing Survey No. 935 situated at village Bargaye, Tehsil and District Datia. The respondents challenged the award by making a reference to the Additional Judge to the Court of First Additional District Judge, Datia, in which the learned Court partly allowing the reference u/s 18 of the Act ordered to value the land acquired according to the determined market value of irrigated land @ Rs. 3,74,000/- per hectare. Besides u/s 23(2) of the Act, 30% solatium has also been awarded and u/s 23(1)(A) of the Act, 12% interest has also been awarded.

4. In the present appeal, the non-applicant/State has assailed the impugned order on several grounds. It is contended that the reference made by the

respondents is barred by limitation. The land bearing Survey No. 935 is not irrigated land. Merely on the basis of certification by the Sarpanch, the land was presumed to be irrigated. It is also contended that there is no cogent evidence in this regard. Therefore, the impugned order is liable to be rejected.

5. We have heard both the counsel and perused the Award dated 31.07.2013.

6. As regarding the objection of limitation, the respondents have filed the application u/s 18 of the Act before the Land Acquisition Officer, Datia, for referring the matter to the District Civil Court for adjudication. In the application, it has been mentioned that on 13.12.2007, 07.01.2008 and 20.01.2008, applications were filed by the respondents to verify the existence of a "well" in the field and after verification, the land be valued as "irrigated land". The learned reference Court framed issues and decided the same. It is observed by the Court that after the passing of Award on 07.07.2007, the Land Acquisition Officer did not send information to the respondents, whereas it was mandatory to send information. Time limit would start from the date of knowledge of the Award as has been held in Collector, Bhind Vs. Suknandanlal, 1963 JIJ S.N.8. The District Collector, himself in his order-sheet dated 13.04.2009 has mentioned that the respondents were not duly noticed. That being so, the findings given by the reference Court in issue No. 3 cannot be interfered. Solatium as provided u/s 23(2) of the Land Acquisition Act is an integral part of compensation. Award of which is mandatory. Similarly u/s 23(2) of the Land Acquisition Act, the award of interest from the date of taking possession until the compensation is paid, is also mandatory.

7. We relied on the decision rendered in Gurpreet Singh Vs. Union of India (UOI), , in which it is held as under:-

"The mandate of Section 34 and Section 28 that interest would run from the date the Collector takes possession till the particular amount is deposited as provided in those sections, ensures that the claimant is recompensed adequately. Section 28 ensures such recompense at each stage of enhancement of compensation. This clearly indicates that a claimant or decree- holder who has received the entire amount awarded by the Reference Court or who had notice of the deposit of the entire amount so awarded cannot claim interest on the amount he has already received merely because the appellate court has enhanced the compensation and has made payable additional compensation. Such a blanket reopening of the transaction is not warranted even in respect of a money decree. Section 28 of the Act indicates that the award of interest is confined to the excess compensation awarded and it is to be paid from the date of dispossession. This is in consonance with the position that a fresh reappropriation is not contemplated or warranted by the scheme of the Act.

8. As regarding the valuation of the land, the learned Trial Court based its finding on the evidence adduced before it. The learned Trial Court also observed that the questioned land is mentioned as unirrigated in the note-sheet. Whereas in khasra

panchsala of 2010 and 2011, the entry has been made about irrigation being done by tube well. The khasra panchsala of 1999 to 2009 also was examined but in khasra 2010-2011, the means of irrigation has been shown as "well". Thus, the learned reference Court deemed it as an "irrigated land" and accordingly ordered to value the same as per the market value @ 3,74,000/- rupees per hectare.

9. Thus, we find no irregularity in the finding of the reference Court. That being so, the reference Court awarded interest and solatium and also directed to fix the rate as irrigated land on the basis of the above cogent reasons.

10. Consequently, we do not find any force in the submissions made by the appellant. In view of the matter and the above mandatory provisions, we hold that the impugned order is just and proper. The appeal fails and is dismissed accordingly.