

(2012) 10 BOM CK 0099
In the Bombay High Court
Case No : First Appeal No. 196 of 2006

The Additional Deputy Collector, Land Acquisition Officer, APPELLANT
Mapusa Sub-Division, Mapusa Goa

Vs

Mrs. Patricia Annie Mendonca, Represented by her Attorney, RESPONDENT
Mr. Anandrao V. Chatim

Date of Decision : 18-10-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : (2012) 10 BOM CK 0099

Hon'ble Judges : A.P. Lavande, J

Bench : Single Bench

Advocate : S. Linhares, for the Appellant;

Final Decision : Dismissed

Judgement

A.P. Lavande, J.—Heard Ms. S. Linhares, learned Additional Government Advocate for the appellant. None appears on behalf of the respondent, though served. By this appeal, the appellant takes exception to the judgment and award dated 6.6.2005 passed by the Ist Ad-hoc Additional District Judge, Panaji in the Land Acquisition Case No. 84/2003 by which the reference u/s 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act" for short) has been partly allowed.

2. Vide notification dated 24.9.1991 issued u/s 4 of the Act, which was published in the official gazette dated 28.5.1992, the Government of Goa notified its intention to acquire the land admeasuring 1040 square meters of survey No. 88/9 of Parra village belonging to the respondent for extension of the Government Primary School building at Parra. The respondent claimed compensation at the rate of Rs. 150/- per square meter. The Land Acquisition Officer awarded compensation at the rate of Rs. 30/- per square meter for the respondent's land.

3. Dissatisfied with the award, the respondent sought reference u/s 18 of the Act and claimed compensation at the rate of Rs. 150/- per square meter.

4. In Land Acquisition Case No. 84/2003, respondent/claimant examined two witnesses namely AW1 Anandrao Chatim and produced survey document, five sale deeds dated 14.9.1994, 1.9.1989, 17.10.1989 and 20.10.1989 (Exhibits 17 to 21 respectively). By Exhs. 19 to 21, the respondent himself had sold plots of survey No. 88/9 i.e. part of the same property at the rate of Rs. 150/- per square meter. Respondent/claimant also examined AW2 Sanjay Kamat, the valuer, who produced the report dated 5.7.2004.

5. The Reference Court enhanced the compensation to Rs. 150/- per square meter from Rs. 30/- per square meter. Perusal of the impugned judgment and award discloses that the Reference Court placed reliance upon the sale deeds dated 1.9.1989 Exh. 19, 17.10.1989 Exh. 20 and sale deed dated 20.10.1989 Exh. 21 by which the respondent had sold plots admeasuring 312 square meters, 380 square meters and 403 square meters at the rate of Rs. 150/- per square meter.

6. Ms. S. Linhares, learned Additional Government Advocate appearing for the appellant submitted that the Reference Court erred in enhancing the compensation by placing reliance upon Exhs. 19, 20 and 21 inasmuch as the said plots were small plots whereas the acquired portion was admeasuring 1040 square meters. Learned Counsel therefore submitted that the Reference Court ought to have made deduction on account of largeness of the acquired plot vis-à-vis the sale deed plots Exhs. 19, 20 and 21.

7. As stated above, none has appeared on behalf of the respondent.

8. I have considered the submission made by Ms. S. Linhares, learned Additional Government Advocate for the appellant and perused the record.

9. In view of the above, the following point arises for determination in the present appeal.

Whether the Reference Court was justified in enhancing the compensation at the rate of Rs. 150/- per square meter in respect of the acquired land?

10. I am of the considered opinion that no interference is warranted with the impugned judgment and award. There is no dispute that the sale deed plots namely Exhs. 19 to 21 were in respect of the smaller plots of the remaining land bearing survey No. 88/9 of village Parra. There is also no serious dispute that the acquired land and the land in the three sale deeds were identical.

11. No doubt, the acquired land was comparatively large as compared to the sale deed plots Exhs. 19 to 21. Yet the fact remains that the three sale deeds were executed in the year 1989 and in the present case notification u/s 4 of the Act was published on 28.5.1992 i.e. almost after three years from the date of execution of the sale deed. This being the position, there is bound to be

escalation at least to the extent of 7 1/2 per cent per annum since the acquired land was in the village. Therefore, the largeness of the acquired plot has to be balanced with the passage of time after execution of the sale deeds. Learned Reference Court has not taken into consideration any escalation on the ground that there was no material placed on record. By now it is well settled that even in the absence of any evidence on record, the Court is bound to take judicial notice of increase in price of the land and grant appropriate escalation depending upon whether the acquired land is in a town or village. Considering the escalation on account of passage of time, I am of the considered opinion that the compensation fixed at the rate of Rs. 150/- per square meter in respect of the acquired land cannot be said to be excessive warranting interference in the appeal.

12. In view of the above, the compensation granted at the rate of Rs. 150/- per square meter in respect of the acquired land is just and fair and, therefore, no interference is warranted in the impugned judgment and order. In the result therefore, I do not find merit in the appeal. Consequently, the appeal stands dismissed with no order as to costs.