

(2009) 01 SC CK 0077

In the Supreme Court Of India

Case No : Civil Appeal No's. 3332, 3333 and 3334 of 2001

T.S. Ramachandra Shetty

APPELLANT

Vs

Chairman, Karnataka Housing Board and Another

RESPONDENT

Date of Decision : 22-01-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 24

Citation : (2010) 10 AWC 2006 Supp : (2009) 4 JT 363 : (2009) 4 KarLJ 85 : (2009) 3 SCALE 333 : (2009) 14 SCC 334

Hon'ble Judges : H. S. Bedi, J; Dalveer Bhandari, J

Bench : Division Bench

Advocate : S. K. Kulkarni, M. Gireesh Kumar, Avijeet Kumar Lala and Sangeeta Kumar, for the Appellant; Vikas Rojipura, E.C. Vidya Sagar, Sanjay R. Hegde, Amit Kumar Chawla and A. Rohen Singh, for the Respondent

Final Decision : Allowed

Judgement

Dalveer Bhandari, J.—We are disposing of Civil Appeal Nos. 3332 to 3334 of 2001 by this judgment. The facts of these appeals are identical. For the sake of convenience, the facts are being taken from Civil Appeal No. 3332 of 2001. Appellant's land measuring 1 acre 32 guntas in Survey No. 32/1 at Henjagondanahalli village was acquired pursuant to the preliminary notification published on 20.5.1997.

2. The Land Acquisition Officer had granted compensation at the rate of Rs. 17,500/- per acre. The Reference Court on appeal enhanced the amount from Rs. 17,500/- to Rs. 2,17,800/- per acre. This amount was calculated at the rate of Rs. 5/- per square feet. The Karnataka Housing Board aggrieved by the said judgment preferred appeal before the High Court of Karnataka. The Division Bench of the Karnataka High Court while taking into consideration all the facts reduced the amount of compensation from Rs. 2,17,800/- to Rs. 1,30,680/- per acre. This amount of compensation has been calculated at the rate of Rs. 3/- per square feet. In the impugned judgment, the High Court has mentioned that the

claimant-appellant herein himself had purchased the land in question on 24.3.1986 for Rs. 45,000/- which is based on calculation at the rate of Rs. 1.75 per square ft.

3. The preliminary notification u/s 4(1) of the Act was issued a year later i.e. 20.5.1987. The appellant relied on the sale deeds executed subsequently and that too for smaller pieces of lands meant for housing sites being Ex.P.2 and that of 1990. The High Court in the impugned judgment has rightly observed that Ex.P.2 cannot be taken into consideration particularly keeping in view that the sale deed in respect of this very acquired land which was effected only a year ago in 1986 itself was available as a ready basis for determining the market value of the land.

4. The High Court in the impugned judgment observed that after giving reasonable deductions towards development charges, the market rate can be safely taken as Rs. 3/- per square feet since this price was even suggested for the lands in question even by the respondent - Housing Board to the claimant-witness. The High Court granted compensation at the rate of Rs. 3/- per square feet. The compensation in this case worked out to be Rs. 1,30,680/- per acre. The High Court also observed that the appellant - land owner will also be entitled to other statutory benefits and interest as per the provisions contained under Sections 23 and 28 of the Act.

5. The fact is that this very land was purchased by the appellant a year ago i.e. on 24.3.1986 for Rs. 45,000/- and for the same land the High Court gave compensation of Rs. 1,30,680/- per acre only after a year. In our considered opinion, the view which has been taken in the impugned judgment is in consonance with the settled legal position. The High Court has taken into consideration all the relevant facts in granting compensation. The High Court was fully justified in giving due weightage to the fact that the sale deed of 1986 in respect of this very acquired land was available and the same ought to be the basis for determining the market value of the land.

6. Learned Counsel for the respondent placed reliance on the case of Bangaru Narasingha Rao Naidu and Others Vs. Revenue Divisional Officer, Vizianagaram, . In this case, this Court observed that the best evidence of the market value of the acquired land is afforded by transactions of sale in respect of the very acquired land.

7. In the case of Spl. Tehsildar, Land Acqn., Vishakapatnam Vs. Smt. A. Mangala Gowri, , this Court observed as under:

The market value postulated in Section 23(1) of the Act designed to award just and fair compensation for the lands acquired. The word "market value" would postulate price of the land prevailing on the date of the publication of the notification u/s 4(1).

The acid test that for determining the market value of the land, the price which a

willing vendor might reasonably expect to obtain from a willing purchaser would form the basis to fix the market value. For ascertaining the market rate, the Court can rely upon such transactions which would offer a reasonable basis to fix the price. The price paid in sale or purchase of the land acquired within a reasonable time from the date of the acquisition of the land in question would be the best piece of evidence. In its absence the price paid for a land possessing similar advantages to the land in the neighbourhood of the land acquired in or about the time of the notification would supply the data to assess the market value. But exclusion of bona fide and genuine sale transactions in respect of the same land under acquisition and to place reliance on the award of some other land is obviously illegal.

8. In the case of *Periyar and Pareekanni Rubbers Ltd. Vs. State of Kerala*, , this Court observed as under:

10. ...When the Courts are called upon to fix the market value of the land in compulsory acquisition, the best evidence of the value of property is the sale of the acquired land to which the claimant himself is a party, in its absence the sales of the neighbouring lands. In proof of the sale transaction, the relationship of the parties to the transaction, the market conditions, the terms of the sale and the date of the sale are to be looked into. These features would be established by examining either the vendor or vendee and if they are not available, the attesting witnesses who have personal knowledge of the transaction etc. The original sale deed or certified copy thereof should be tendered as evidence. The underlying principle to fix a fair market value with reference to comparable sales is to reduce the element of speculation. In a comparable sale the features are: (1) it must be within a reasonable time of the date of the notification; (2) it should be a bona fide transaction; (3) it should be a sale of the land acquired or land adjacent to the land acquired and (4) it should possess similar advantages. These should be established by adduction of material evidence by examining as stated above the parties to the sale or persons having personal knowledge of the sale transactions. The proof also would focus on the fact whether the transactions are genuine and bona fide transactions.

9. Learned Counsel for the respondent also placed reliance on *M/s. Printers House Pvt. Ltd. Vs. Mst. Saiyadan (Deceased) by L. Rs., and others*, . He drew our attention to paragraph 7 of this judgment which deals with the similar proposition that the sale price of the acquired land is an important factor for determining the compensation.

10. Reliance has also been placed on the case of *Ranvir Singh and Another Vs. Union of India (UOI)*, . In this case, the Court reiterated the well settled principle that the sale deeds pertaining to the portion of lands which are subject to acquisition would be the most relevant piece of evidence for assessing the market value of the acquired lands.

11. The facts of the case of *The Dollar Company, Madras Vs. Collector of Madras*,

are identical to the facts of the instant case. Relevant portion of paragraphs 5 and 6 read as under:

In determining the market value the main criterion is what a willing purchaser would pay a willing vendor. Ordinarily a party will be entitled to get the amount that he actually and willingly paid for a particular property, provided the transaction be bona fide and entered into with due regard to the prevalent market conditions and is proximate in time to the relevant date u/s 23. The best evidence of the value of property is the sale of the very property to which the claimant is a party. If the sale is of a recent date, then all that need normally be proved is that the sale was between a willing purchaser and a willing seller, that there has not been any appreciable rise or fall since and that nothing has been done on the land during the short interval to raise its value. But if the sale was long ago, may be the Court would examine more recent sales of comparable lands as throwing better light on current land value. Such lands should be close by and not a mile-and-half away as one of the examples pressed here was. So, an actual transaction with respect to the specific land of recent date is a guide-book that courts may not neglect when called upon to pin the precise compensation.

12. Similarly, in the instant case, only an year ago, the appellant himself purchased this very piece of land for Rs. 45,000/- and after an year, the State has given compensation of Rs. 1,30,680/-, which cannot be said to be inadequate by any stretch of imagination. The Reference Court was not justified in enhancing the amount of compensation to Rs. 2,17,800/-. There is no basis whatsoever. In our considered opinion, the view which has been taken by the High Court in the impugned judgment is based on settled legal position of law, as indicated in some of the cases noted above. No interference is called for. These appeals being devoid of merits are accordingly dismissed, leaving the parties to bear their own costs.