

(2017) 09 SC CK 0074
In the Supreme Court Of India
Case No : C.A. No. 15448 of 2017

UNION OF INDIA

APPELLANT

Vs

SAVITRI DEVI & ANR

RESPONDENT

Date of Decision : 21-09-2017

Acts Referred:

Citation : AIR 2017 SC 5834 : 2017 AIR(SCW) 5834 : (2018) 1 AIRDeIR 720

Hon'ble Judges : Arun Mishra, J; Mohan M. Shantanagoudar, J

Bench : Division Bench

Advocate : NEELAM GULATI

Final Decision : Allowed

Judgement

1. Leave granted.

2. After hearing learned counsel for the parties, we deem it appropriate to set aside the impugned judgment and order as the circle rates, that has been relied upon, could not have been made the basis for determination of the compensation. In the guidelines, the circle rates have been provided for the purpose of payment of stamp duty, but that cannot be made the basis to determine the actual price of the market value of the property. It may vary considering the nature and situation of the land. Thus, the judgment of the High Court cannot be sustained. In addition, there is nothing to indicate that any statutory committee has determined the said rate on a scientific basis and methodical assessment of market value.

3. This court in Lal Chand vs. Union of India & Anr. [(2009) 15 SCC 769], has laid down thus:

"41. It should however be noted that as contrasted from the assessment of market value contained in non-statutory Basic Valuation Registers, the position may be different, where the guideline market values are determined by Expert Committees constituted under the State Stamp Law, by following the detailed

procedure laid down under the relevant rules, and are published in the State Gazette. Such state stamp Acts and the Rules thereunder, provide for scientific and methodical assessment of market value in different areas by Expert Committees.

44. One of the recognised methods for determination of market value is with reference to opinion of experts. The estimation of market value by such statutorily constituted expert committees, as expert evidence, can, therefore, form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We, however, hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either streetwise, or road-wise, or area-wise, or village-wise) and finalised after inviting objections and published in the Gazette. Be that as it may.

46. In the instant case, there is nothing to show the circle rates have been determined by any statutorily appointed committee by adopting scientific basis. Hence, the principle in *Jawajee Naganatham* will apply and they will not be of any assistance for determining the market value. Further, they do not purport to be the market value for lands in rural areas on the outskirts of Delhi, nor the market values relating to Rithala village. The circle rates relate to urban/city areas in Delhi and are wholly irrelevant."

4. In *Government (NCT of Delhi) & Ors. v. Ajay Kumar & Ors.* [(2014)13 SCC 734] it was held that circle rates could not form the basis. Compensation has to be determined on the basis of objective criteria, this court observed:

"7. We have heard Shri L.N. Rao, learned Additional Solicitor General appearing for the appellants and Shri P.S. Narasimha, learned senior advocate appearing for the respondents.

Though, we appreciate the anguish expressed by the High Court over the abysmally low market value determined by the Land Acquisition Collectors in almost all cases, a phenomenon which is prevalent all over the country, it is not possible to approve the exercise undertaken by the High Court for forcing the administration to prescribe circle rates as the criteria for fixing market value or for determination of the compensation. The 1894 Act contains a comprehensive mechanism for fixing market value and determination of the compensation payable. Any person, who feels aggrieved by the award of the Land Acquisition Collector or the determination made by the Reference Court can avail remedy either by filing an application under Section 18 of the 1894 Act or by filing an appeal under Section 54 thereof. Therefore, there was no justification for the High Court to have compelled the Government to adopt the circle rates as an important factor for fixing market value of the acquired land. The power vested in the Collector to determine market value of the acquired land cannot be

controlled by a judicial fiat and each case has to be decided by the concerned authority by application of objective criteria.

8. In the result, the appeals are disposed of by making it clear that the circle rates referred to in notification dated 23.2.2001 issued by appellant No.1 shall not constitute the sole criteria for fixing market value of the acquired land and the Land Acquisition Collector shall be free to make determination by taking into consideration the relevant factors and the evidence which may in an appropriate case include circle rates.

5. It was submitted by learned counsel appearing for the parties that it would be appropriate to permit the parties to adduce additional evidence. The High Court may permit the parties to adduce the evidence before the Reference Court and call for the finding of the Reference Court.

6. The circle rates for purpose of stamp duty could not have been made the basis for determining the market value. Resultantly, we set aside the judgment passed by the High Court. The appeals are allowed and the matters are remitted to the High Court for deciding afresh.