

(2000) 02 SC CK 0059

In the Supreme Court Of India

Case No : Civil Appeal No's. 5494, 7614 to 16, 7618 to 23, 7710, 7736, 8253 to 57, 8304, 8308, 8310 to 8312, 8314, 8316 to 19, 8321 to 26, 8328 to 30, 8483, 8609 to 25, 8627, 8629 to 33, 8636, 8726, 8896, 8898, 8902 to 06, 8909 to 12 and 8929 of 1997, 191 to 196,

Union of India (UOI)

APPELLANT

Vs

Mangat (Dead) by L.Rs. and Others

RESPONDENT

Date of Decision : 08-02-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : AIR 2000 SC 3527 : (2000) AIRSCW 3192 : (2000) 4 ALLMR 590 : (2000) 7 JT 356 : (2000) 10 SCC 609

Hon'ble Judges : M. B. Shah, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. By notification dated 22nd March, 1985, 1130 acres, 5 kanals and 4 marlas of land in village Manesar, District Gurgaon was notified u/s 4 of the Land Acquisition Act for setting up National Security Guard Camp.

2. After the notification u/s 6 was issued claimants were invited and the Collector, vide his award No. 4026 dated 3rd June, 1985 fixed the. value of land as follows:

Chahi Rs. 50,000/- Magda Rs. 45,000/- Bhud Rs. 40,000/- Banjar Rs. 35,000/- Gair Mumkin Rs. 20,000/-

3. Being dissatisfied, the land-owners filed Reference u/s 18 of the Land Acquisition Act. Reference was made to the Additional District Judge who came to the conclusion that the location of land was such that it had a lot of potentiality for future development. It was situated on National Highway No. 8. There were schools, banks, a bazaar, a power house and a residential complex near the vicinity. A commercial establishment had also been set up since 1984 and even though it was not declared as an urban area it was fast growing into one since

last many years. On this basis the Additional District Judge disregarded the quality of land, which the Collector had divided into five categories, and taking an average of the price as determined by the sale-deeds which had been produced, he arrived at a market value of the land at a figure of Rs. 59,290/- per acre.

4. Both the Union of India as well as the claimants filed appeals before the learned single Judge. The High Court enhanced the compensation to Rs. 61,400/- per acre.

5. Letters Patent Appeal was filed by the claimants as well as the Union of India but the Division Bench, by the impugned judgment upheld the determination of market value of Rs. 61,400/- per acre arrived at by the learned single Judge. Hence these appeals by special leave.

6. It is contended by learned Counsel for the respondents that the LPA was not maintainable and, therefore, these appeals should also not be entertained. We do not propose to go into this question for the simple reason that the claimants as well as the Union of India had filed LPAs., no contention had been raised before the Division Bench that the LPA was not maintainable. We, there fore, do not permit the respondents to raise this contention.

7. As far as the merits are concerned the learned single Judge of the High Court has worked out a formula on the basis of which the price has been determined at Rs. 61,400/- per acre. This formula in the words of the High Court is as follows:

The only formula which this Court has been able to conceive and work out is that Court in order to determine the market value of the acquired land should in the first instance find out as to which sale transaction are relevant and comparable vis-a-vis the acquired land and thereafter the area sold in a particular sale deed should be converted into one acre. The sale consideration mentioned in the sale deed, the area of which has been converted into one acre, should be mathematically converted for bringing out the price of the land of one acre. In this manner the price of such sale deed is to be taken out. After totalling up the sale consideration of all the comparable sale deeds the same should then be divided by the number of the sale deeds. The figure after such division would be the average price of the land at the rate of per acre. Thereafter the Court is obliged to apply a cut in accordance with the facts and circumstances of a particular case. This is the only principle which seems to have been followed in the past while assessing the compensation.

8. We see no warrant in law for the formula indicated above being applicable while finding the market value of acquired land as on the date the said notification u/s 4. This mathematical formula completely disregards the location of the land which is acquired vis-a-vis the instance sale the difference in the area acquired and the area of the sale instance and several other relevant factors in this regard. As has already been indicated hereinabove, the area which was acquired was 1130 acres and 4 marlas, only a small portion of which abutted on the National Highway No. 8. Even if one was to disregard the quality of the land

i.e. irrigated, semi irrigated or barren, one cannot be oblivious of the fact that the market value of land which abuts on the National Highway would be much more than the land which is away from it. A price of the land which is land-locked and which is farther away from the National Highway cannot be the same as that which abuts on the National Highway. The formula which had been applied by the High Court, however, seems to indicate that the price of the entire land irrespective of the location of different parcels of land is the same. The formula which was applied by the learned single Judge of the High Court is obviously incorrect.

9. We are informed that the compensation which was awarded by the Additional District Judge has already been paid to the claimants. The payment was made more than a decade ago in this view of the matter, and considering the length of time which has elapsed, we do not think it is in the interest of justice that the award of the Additional District Judge should be interfered with. The result of this would be that the judgment of the High Court is set aside and the amount awarded by the Additional District Judge is affirmed, as a result of which the compensation of the acquired land stands determined at Rs. 59,290/- per acre. Parties to bear their own costs.

10. These appeals stand disposed of.