

THE STATE OF BIHAR
v.
MADHESHWAR PRASAD

AUGUST 8, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Land Acquisition Act, 1894 :

Ss.23(1), 23(1-A), 23(2), 28—Acquisition of agricultural land—Compensation—Determination of—Reliance on sale deeds—3 acres and 17 decimals of land acquired in pursuance of Notification u/s. 4(1) published in 1981—Award by Land Acquisition Officer in 1985 granting compensation at the rate of Rs. 14,445 per acre—Reference court enhanced compensation to Rs. 15,055 per acre—On appeal, High Court, relying upon sale deeds awarded compensation at the rate of Rs. 45,000 per acre and awarded Rs. 20,000 as value of well—Though certified copies of sale deeds filed and clerk of Sub-Registrar was examined, neither vendor nor vendee was examined—Held, clerk of Sub-Registrar has proved the material as secondary evidence but other factors had to be established showing that sale deeds offered comparable value for determining the compensation—However, as the land is near national highway and 4 km. away from Jamshedpur city, reasonable compensation would be Rs. 22,000 per acre—Claimants are not entitled to value of well separately as the well was being used for irrigation of the land—Claimants entitled to benefits of Amendment Act 68 of 1984.

R. Ram Reddy & Ors. v. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad & Ors., [1995] 2 SCC 305 and O. Janardhan Reddy & Ors. v. Spl. Dy. Collector, L.A. Unit-IV, LMD Karimnagar, A.P. & Ors., [1994] 6 SCC 456, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 10915-10916 of 1996.

From the Judgment and Order dated 1.6.92 of the Patna High Court in F.A. Nos. 105 and 93 of 1987.

H.L. Agarwal, R.P. Singh and B.B. Singh for the Appellant.

S.B. Sanyal and S.B. Upadhyay for the Respondent.

A The following Order of the Court was delivered :

Leave granted.

B Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short the 'Act') was published on September 16, 1981 acquiring 3 acres 17 decimals of land for Suvarnarekha Project. The Land Acquisition Officer by his award dated September 3, 1985 granted compensation at Rs. 14,445 per acre. On reference, the Subordinate Judge enhanced it to Rs. 15,055 per acre. Both the State as well as the claimants filed the appeals in the High Court. The High Court in the impugned judgment in FA No. C 105 and 93 of 1987 dated June. 1, 1993 enhanced the compensation to Rs. 45,000 per acre treating the acquired land in Don-I as cultivable land. It also granted Rs. 20,000 towards the well and statutory solatium and interest. Thus, these appeals by special leave.

D The question that arises for consideration is : whether the High Court was justified in enhancing the compensation to Rs. 45,000 per acre? The High Court has relied upon the sale deed Ext. 3/A dated March 16, 1981 pertaining to lead of an extent of 25 decimals of Don-II lands and 14 decimals of Don-I lands sold for consideration of Rs. 16,000. It also relied upon another sale deed of the year 1983 with value of Rs. 1,10,000 per decimal; in other words, Rs. 45,000 per acre. Unfortunately, neither the vendor nor the vendee has been examined in proof of passing of the consideration under the sale deed etc. Only a clerk of the Sub-registrar was called as witnesses to prove the sale deeds which are the certified copies of the sale deeds. No doubt, under Section 51-A of the Act, the certified copy of the sale deed is admissible as evidence to get over the difficulties of the owner of the document would not produce the original title deeds. The clerk of the Sub-registrar has proved that material as secondary evidence but other factors *aliunde* has to be established that the sale deed offers comparable value for determining the compensation at Rs. F 45,000 per acre.

G This Court had elaborately considered and laid this principle of law in a catena of decisions, the latest being *R. Ram Reddy & Ors. v. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad & Ors.*, [1995] 2 SCC 305. Therefore, it needs no reiteration.

H But, the fact is that the lands are situated very near to the national

highway but 4 km. away from the Jamshedpur city. Under circumstances, taking into consideration the facts and circumstances, we are of the view that the reasonable compensation would be Rs. 22,000 per acre. The claimants are not entitled to the value of the well i.e. Rs. 20,000 since the well was being used for irrigation of the land. For the reason, it cannot be separately valued as held by this Court in *O. Janardhan Reddy & Ors. v. Spl. Dy. Collector, L.A. Unit-IV, LMD, Karimnagar, A.P. & Ors.*, [1994] 6 SCC 456.

The appeals are accordingly partly allowed. The market value of lands is determined at 22,000 per acre with solatium and interest and also additional amount as per Section 23(2) @ 30% on the enhanced compensation, interest under Section 28 for the first year at 9% and thereafter at 15% on the enhanced compensation from the date of taking possession till date of deposit. They are also entitled to the additional amount at 12% p.a. under Section 23(1-A) of the Act from date of notification under section 4(1) till date of award or taking possession whichever is earlier. No costs.

R.P.

Appeals partly allowed.