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SMT. BASAVVA AND ORS. ETC.

v.

THE SPL. LAND ACQUISITION OFFICER, AND ORS.

MARCH 15, 1996

B

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Land Acquisition Act, 1894 :

C

Land Acquisition—Compensation—Determination of market value—Deduction towards development charges—Permissible extent of—Deduction between 33-1/3 to 53% held permissible by Supreme Court in many decisions—Land acquired situated in area where there was no development—Development likely to take long time—Reliance on sale deed for compensation—Land under sale deed situated at far flung area from land under acquisition—In view of the fact that development would have taken long years High Court allowed additional deduction of 12% i.e. 53% and 12% in determination of compensation—Held principles adopted by High Court was not illegal.

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E

K. Vasundara Devi v. Revenue Divisional Officer, LAO, [1995] 5 SCC 426, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2209-12 of 1993 Etc. Etc.

F

From the Judgment and Order dated 25.9.92 of the Karnataka High Court in Misc. F.A. Nos. 677-79 and 681 of 1989.

G

K. Madhava Reddy, S.S. Javaly, G.L. Sanghi, D. Dave, Anand A. Magadam, E.C. Vidya Sagar, Gopal Singh, T.V. Ratnam, Ms. Kiran Suri, B.G. Sridharan, G.V. Chandrashekhar, P.P. Singh, P. Mahale, S.K. Kulkarni, M.T. George and Ms. Sangeeta Kumar for the Appearing parties.

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The following Order of the Court was delivered :

Notification under section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') acquiring 194 acres of land (out of which 33 acres is subject matter in these appeals) for industrial development near Dharwad was published on October 30, 1981. The Land Acquisition Officer awarded

compensation at the rate ranging between Rs. 8,000 to Rs. 8,080 by his award dated August 22, 1985. On reference the Civil Court enhanced the compensation to Rs. 1.72 per sq. ft. by judgment and order October 11, 1988 which worked out to Rs. 74,953 per acre. On appeal by judgment and order made in FMA No. 575/89 and batch the High Court reduced the compensation to Rs. 56,000 per acre. Thus, this appeal by claimants for further increase. It is also not in dispute that though the State wanted to file appeals against enhancement of the compensation, this Court has dismissed their Special Leave Petitions.

Shri K. Madhava Reddy, learned senior counsel for the appellants contended that 53% deduction is reasonable, as held by this Court but deduction of 65% towards the developmental charges by the High Court is not correct principle of law. Therefore, the High Court has committed error of law in reducing the same. He also contended that when the lands acquired are adjacent to national highway and compensation for acquisition, though subsequent to the date of notification in this case, for the lands in Kulkarni's case which in just disposed of, was granted at the rate of Rs. 67,200 per acre, the appellants also are entitled to the same benefit. The High Court, therefore, was in error in determining the compensation at the rate of Rs. 56,000 per acre. Shri Sanghi, learned senior counsel for the respondents resisted the contention.

Having given our consideration, the question that arises for consideration is : whether the High Court has committed any error of law in fixing the compensation at the rate of Rs. 56,000 per acre ? On the principle of deductions in the determination of the compensation, this Court in *K. Vasundara Devi v. Revenue Divisional Officer, LAO*, [1995] 5 SCC 426 has considered the entire case law and has held that the Court, in the first instance, has to consider whether sales relating to smaller pieces of lands are genuine and reliable and whether they are in respect of comparable lands. In the event the Court finds that such sales are genuine and reliable and the lands have comparable features, sufficient deduction should be made to arrive at the just and fair market value of large tracks of land. The time lag for real development and the waiting period for development are also relevant consideration for determination of just and adequate compensation. Each case depends upon its own facts. For deduction of development charges, the nature of the development, conditions and nature of the land, the land required to be set apart under the building

- A rules for roads, sewerage, electricity, parks, water etc, and all other relevant circumstances involved are to be considered. In this case the facts recorded by the High Court are that Ex.P-10 sale deed is dependable sale but it is in respect of a small plot of land situated at a distance of more than 1 k.m. It is has also found that the land in the area is not developed and there is no development towards that area. The High Court also noted that it takes years for development in those lands though, the lands are capable to be used for non-agricultural purpose. On those findings the High Court held the market value under Ex.P-10 cannot form the sole basis but keeping in view the developments the lands are capable to fetch compensation at the rate of Rs. 56,000 after deducting 65%. For developmental charges, that deduction between 33-1/3 to 53% was held to be valid by this Court in several judgments. In Vasundara Devi's case 63% deduction was upheld. In view of the fact that development of land would have taken years, the High Court has deducted another 12%. Obviously, the High Court kept in view the fact that the lands under Ex.P-10 were situated at far flung places from the lands under acquisition and since the land takes long time for development it has given additional deduction of 12%, i.e. $53 + 12\% = 65\%$ in determination of the compensation. On the basis of the rationale referred to above, the principle adopted by the High Court cannot be said to be illegal. Thus considered, we hold that there is no justification for interference in the finding recorded by the High Court or to further increase the compensation.

The appeals are accordingly dismissed. No costs.

T.N.A.

Appeals dismissed.