

M.V.K. GUNDARAO
v.
REVENUE DIVISIONAL OFFICER, (L.A.O.), NARASARAOPET

JANUARY 15, 1996

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

Land Acquisition Act, 1894 :

Compensation—Award of—Enhancement—Sale transactions in respect of Land adjacent to lands acquired—Not genuine transactions—With prior knowledge of acquisition documents brought into existence to inflate market value—Hence not entitled to rely upon the same for higher compensation.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2518-21 of 1996.

From the Judgment and Order dated 21.2.92 of the Andhra Pradesh High Court in A. Nos. 2629/86 & 1183 of 1984.

A.T.M. Sampath for the Appellant.

G. Prabhakar for the Respondent

The following Order of the Court was delivered :

Leave granted.

We have heard the counsel on both sides. Notification under Section 4(1) of the Land Acquisition Act was published on January 3, 1980 acquiring 5108-2/3 sq. yds. in survey Nos. 248/2, 249/2, 300/1 and 26767 sq. ft. or 2974-1/4 sq. yds. in temporary Survey No. 249/3 and 300/2 situated in the middle of Narasaraopet Town, Guntur District, Andhra Pradesh for construction of Telephone Exchange building, Microwave Building and Microwave Tower. The appellant has laid his claim for a sum of Rs. 80 per sq. yd. The Land Acquisition Officer in his award under Section 9 determined the compensation @ Rs. 40 per sq. yd. on March 30, 1980. On reference under Section 18, the Subordinate Judge, Narasaraopet in his award and decree dated December 15, 1982 enhanced the compensation at Rs. 75 per sq. yd. The High Court on appeal by the State as well as by the claimants reduced the compensation to Rs. 56 per sq. yd. Thus these appeals by special leave. The State did not file

A any appeal.

B The Subordinate Judge relied on Ex. A-1 to A 4, sale deeds dated September 16, 1978 executed in respect of 43 sq. yds. 69 sq. yds., 104 sq. yds., 149 sq. yds. respectively, which worked out at the rates between Rs. 71 to Rs. 75 per sq. yd. Based thereon, the Subordinate Judge enhanced the compensation to Rs. 75 per sq. yd. The High Court concluded that since the lands covered in the sale transactions relate to the small pieces of land, they did not commend the same price for the total extent of the land to the acquisition covering 5,000 and odd sq. yds. Accordingly reduced the compensation in the impugned Judgment made in A.S. No. 2629/86 and 1183/84 dated February 21, 1992.

C Mr. A.T.M. Sampath, Learned counsel for the appellant, contended that the sale deeds between A-1 to A-4 relied on by the reference Court relates to same acquired lands. The validity had not been questioned. Their genuineness was not questioned. The consideration passed thereunder was not questioned and the Subordinate Judge recorded a finding that in view of these undisputed facts, they form reasonable basis to determine the compensation since they pertain to the very same land under acquisitions. Therefore, it would form the best basis for determination of the compensation. We find that it is difficult to accept that contention. It is settled law that the burden is on the claimant to prove the prevailing market value as on the date of the Section 4(1) Notification and it is the duty of the Court to assess the prevailing market value applying pragmatic tests. The Court has to consider the evidence in the proper perspective whether a willing vendee would prepare to purchase at the rates offered by the willing vendor in an open market when the lands are put to sale. It is the duty of the Court to sit on the arm chair of a prudent purchaser acting under normal market conditions and to decide the prevailing prices as on the date of the notification. The land Acquisition Officer in his award has specifically referred to all these sale transactions and stated thus :

G "*Sale Nos. 9, 10, 11, 16 and 22* : In all these cases the vendor is the same. The land of the same vendor in the same survey numbers is now under acquisition. The land holder is aware of this acquisition since he orally consented for the same and it is suspected that he might have got these sale registered for a higher value with the idea getting higher rate of compensation. Hence these sales are discarded."

H It would thus be seen that the appellant having had the knowledge of

the proposed acquisition for the public purposes obviously brought these documents to inflate the market value and that, therefore, these sale transactions cannot be pressed into service. The learned Subordinate Judge has committed palpable error of law in accepting *ipso facto* those documents without subjecting the evidence to closer and critical scrutiny, whether these documents are genuine documents executed between willing vendor and willing vendee. The answer would be obviously "No". The High Court, therefore, was right in not relying upon those documents. If these documents are excluded from consideration, there is no other evidence on record to consider for enhancement of the compensation. The High Court, therefore, was right in reducing the compensation from Rs. 75 to Rs. 56 with consequential benefit of solatium and interest. The appeals are accordingly dismissed but, in the circumstances, without costs.

G.N.

Appeals dismissed.