

CASE NO.:
Appeal (civil) 12515 of 1996

PETITIONER:
THE SPECIAL LAND ACQUISITION OFFICER, BTDA, BAGALKOT.

Vs.

RESPONDENT:
MOHD. HANIF SAHIB BAWA SAHIB

DATE OF JUDGMENT: 19/03/2002

BENCH:
Doraiswamy Raju & Ashok Bhan

JUDGMENT:

With
CA Nos. 13370-13371/1996, CA No.2238-2242 of 2002 (@ SLP A Nos. 21304-21308 of 1996) and CA Nos. 1552-1554 of 2000.

J U D G M E N T

Bhan, J.

Leave granted in the special leave petitions.

This order shall dispose of CA No. 12515 of 1996, CA Nos. 13370-13371/1996 and CA Nos.2238-2242 of 2002 (@ SLP A Nos. 21304-21308 of 1996) as common question of law and facts are involved in these appeals. The facts of Civil Appeal Nos. 1552-1554 of 2000 being different would be referred to in the later part of this judgment.

For the disposal of Civil Appeal Nos. 12515 of 1996, Civil Appeal Nos.13370-71 of 1996 and CA Nos.2238-2242 of 2002 (@ SLP A Nos. 21304-21308 of 1996, the facts are referred to from Civil Appeal No. 12515 of 1996.

The brief facts are as follows:

The State of Karnataka issued a notification under Section 4 (1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') seeking to acquire the plots belonging to the claimants of Village Murnal for a public purpose, namely, Bagalkot new township. The notification was published in the Karnataka Gazette on 19th July, 1985. The declaration under Section 6 was published in the Karnataka Gazette on 14th August, 1987. The Special Land Acquisition Officer, BTDA, Bagalkot passed the award on 3rd June, 1988. He fixed the market value of the acquired plots at the rate of Rs. 3,500/- per acre treating the land as agricultural.

Aggrieved by the award the claimants submitted applications under Section 18 of the Act seeking enhancement of the market value. In the reference application under Section 18, it was alleged by the claimants that before passing the award, the Land Acquisition Officer did not issue any notice; the compensation awarded was too low, meagre and inadequate. The market value of the acquired property was more than Rs. 30/- per sq. ft., the method adopted for valuing the property was not proper and legal. The

Land Acquisition Officer illegally treated the land to be agricultural. It was stated that the land under acquisition fell within the municipal limits of Bagalkot. On notice being served, respondents put an appearance through the AGP.

In support of their case, the claimants examined PW1 and PW2. Exhibits P1 to P29 were got marked. Respondents did not produce any evidence.

The reference Court on appreciation of the evidence came to the conclusion that the acquired plots were on the southern side of the Belgaum-Raichur road at a distance of 200 feet. On one side of the Belgaum-Bagalkot road, plots were situated and on the other side there was engineering college campus and K.I.D. Colony staff quarters etc.. The plots were adjacent to the engineering college. Near about the acquired plots some other persons had carved out plots on which construction was going on. PW1 stated that he was preparing to put up the building on the plot but in the meanwhile the Government acquired the land. Vidhyagiri Housing Colony, BTDA Office, new Circuit House, engineering college hostel and staff quarters were adjacent to the land acquired. From this it was concluded by the Reference Court that the land under acquisition was surrounded on all four sides by buildings and had a lot of potential for further development. A finding was recorded that the land under acquisition was within the municipal limits.

No evidence was produced by the parties by way of comparable sale transactions to prove the market value. Evidence was also not forthcoming for adoption of the capitalisation method. On behalf of the claimants, reliance was placed on Ex. P.27, a notification issued under section 4 dated 19th January, 1978 by the Housing Urban Development Corporation and the judgment in Land Acquisition Case No. 240 of 1981 relating thereto which was later confirmed in appeal by the High Court.

It was noticed by the reference Court that the notification, Ex. P.27, was dated 19th January, 1978. The land under acquisition under that notification was in close proximity of the land under acquisition in these appeals. The reference Court had determined the market value of the land in LAC No.240 of 1981 at Rs. 3 per sq. ft. which was later confirmed by the High Court in MFA No. 929 of 1987. Notification under Section 4, in the present case, is of 19th July, 1985. Keeping in view that there was a distance of seven years in the earlier acquisition and the subsequent acquisition and the fact that lot of development had already taken place and was continuing to take place, the reference Court taking the base price of the land in that area at Rs. 3/- per sq. ft. for the year 1979 granted an appreciation in the value of land at 10% for every subsequent year. While giving the appreciation of the value @ 10% for the next seven years the reference Court fixed the value of the land at Rs. 6.85 per sq. ft. After making a deduction of 20% towards development charges the payable market value was fixed at Rs. 5.50 per sq. ft. which comes to Rs. 2,39,580/- per acre. Statutory benefits of solatium and interest, as applicable, were ordered to be paid over and above the market value.

The State of Karnataka filed appeals before the High Court which have been dismissed by the impugned judgment.

Counsel for the appellant strenuously contended that the reference Court as well as the High Court have erred in giving an appreciation at the rate of 10% per annum for every subsequent year. That the reference Court committed a factual error in calculating the value of the land at Rs. 6.85 per sq. ft.. According to him, even if, appreciation of value of land is taken at 10% on the base price of Rs. 3 for the year 1979, for the next seven years, then the market value of the land in the year 1985 would come to Rs. 5.10 per sq. ft. and not Rs. 6.85 per sq. ft.

Counsel for the respondents fairly conceded that the reference court made a factual error in arriving at the value of the land at the rate of Rs. 6.85