

A SMT. KAMALABAI JAGESHWAR JOSHI AND ORS.

v.

STATE OF MAHARASHTRA AND ORS.

NOVEMBER 30, 1995

B [K. RAMASWAMY AND S.B. MAJMUDAR, JJ.]

*Land Acquisition Act, 1894 :*

*Land Acquisition—Compensation—Enhancement by High Court—Further enhancement—Claim based on un concluded agreement between land-owner and acquisitioning authority—Rejection of—Compensation—Enhancement—Claim on the basis of maximum price determined under sale deeds in case of other acquisitions—Held not permissible in view of different nature of land i.e. agricultural and non-agricultural.*

C *ther enhancement—Claim based on un concluded agreement between land-owner and acquisitioning authority—Rejection of—Compensation—Enhancement—Claim on the basis of maximum price determined under sale deeds in case of other acquisitions—Held not permissible in view of different nature of land i.e. agricultural and non-agricultural.*

D The appellants' land measuring 62.5 acres was acquired for which compensation @ Rs. 250 per acre was awarded. The Reference Court enhanced the compensation to Rs. 2000 per acre and on appeal High Court further enhanced the compensation to Rs. 7000 per acre. In appeal to this Court it was contended for the appellant that (i) before acquisition

E proceedings the land offered by appellants @ Rs. 4 per sq. yard was accepted by the Department and therefore the High Court should have granted compensation on that basis and (ii) having accepted the three sale deeds which served as instances of comparable market value the High Court should have granted compensation on the basis of maximum price determined under those sale deeds.

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Dismissing the appeal, this Court

G **HELD :** 1. It cannot be said that there is a concluded agreement between the requisitioning authority and the appellant to purchase the lands @ Rs. 4 per sq. yd. The concerned engineer had written to the appellant to give his offer for acquisition of the land whereas he had quoted at Rs. 4 per sq. yd. There was no acceptance thereof. However, the matter was referred to the Collector for acquisition. In these circumstances, it remained to be at the stage of offer without any acceptance. [10-D]

H 2. The lands covered under the three sale deeds are situated in green

belt area. There was no development and the lands remained to be agricultural land. Having become aware of the proposal for acquisition, the permission for converting the lands into non-agricultural lands was obtained by the appellant with a view to inflating the market value. All the sale deeds relate to small extents of agricultural lands purchased on square feet basis. They would offer no reasonable basis to further enhance the compensation though they fetched higher market value worked out at Rs. 33,000 per acre. No reasonable and prudent purchaser would offer to purchase this vast extent of land at that rate. The High Court having had the advantage of considering the entire evidence, rightly determined the compensation at Rs. 7,000 per acre. There is no justification to further enhance the compensation. [10-G-H, 11-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1211 of 1986.

From the Judgment and Order dated 29.9.84 of the Bombay High Court in F.A. No. 68 of 1973.

V.B. Joshi for the Appellants.

S.M. Jadhav for the Respondents.

The following Order of the Court was delivered :

Notification under s.4(1) of the Land Acquisition Act was published on May 10, 1962 acquiring a total extent of 62.5 acres belonging to the appellant for extension of the South Eastern Railway Station. The award under s.11 was made on May 13, 1965 determining the compensation @ Rs. 250 per acre. On reference under s.18 by award and decree dated December 8, 1971, the Court had enhanced the compensation to Rs. 2,000 per acre. On further appeal under s.54, the Division Bench of the High Court by judgment and decree dated September 29, 1984 further enhanced the compensation to Rs. 7,000 per acre. Dissatisfied therewith, the appellant has filed this appeal by special leave. The State did not file any appeal against the enhanced compensation.

Shri Joshi, learned counsel for the appellant contended that the appellant, even before the acquisition was initiated, had offered the land @ Rs. 4 per sq. yd. and the Department had agreed and proceeded with the acquisition. The High Court should have granted compensation at

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A Rs. 4 per sq. yd. It is also contended that the High Court having accepted the sale deeds item 1, 2 and 7 which served as instances of comparable market value, they would form reasonable basis to determine the compensation. But the High Court committed grievous error of law in ignoring the maximum price that were fetched in those sale deeds and the High Court

B ought to have granted maximum price determined under those sale deeds. Having heard the learned counsel on both the counts, we think that there is no force in either contention.

So far as the claim @ Rs. 4 per sq. yd. is concerned, it was only an offer made by the appellant and there was no concluded agreement nor at least acceptance by the Department to purchase the lands at that rate. The concerned engineer had written to the appellant to give his offer for acquisition of the land whereat he had quoted at Rs. 4 per sq. per yd. There was no acceptance thereof. However, they referred the matter to the Collector for acquisition. Under those circumstances, it remained to be at the stage of offer without any acceptance. It cannot be said that there is a concluded agreement between the requisitioning authority and the appellant to purchase the lands @ Rs. 4 per sq. yd. With regard to the three sale deeds, it is true that there is some typographical error in item 2 with regard to the assessment of the price fetched therein. But one important factor that cannot, under any stretch of imagination, be lost sight of, is that all the lands including the land covered under item 2 are situated in green belt area. The land in item 2 is of an extent of 260 x 85 sq. ft. and the consideration referred to therein was Rs. 11,500. Even at the time of acquisition, as per the report of the Land Acquisition Officer in the award, there was no development, though the lands are situated within the master plan of the municipal limits. Yet the lands remained to be agricultural lands. It is true that sanction was obtained for converting the lands into non-agricultural lands. It would be obvious that having become aware of the proposal for acquisition, the permission for conversion was obtained by the appellant with a view to inflate the market value. All the sale deeds relate to small extents of agricultural lands purchased on square feet basis. They would offer no reasonable basis to further enhance the compensation though they fetched higher market value worked out at Rs. 33,000 per acre. No reasonable and prudent purchaser would offer to purchase this vast extent of land at that rate. Except obtaining sanction for conversion no further action to develop the lands was taken.

Considered from these angles the High Court having had the advantage of considering the entire evidence, determined the compensation at Rs. 7,000 per acre. We do not think that we would be justified to further enhance the compensation. The appeal is accordingly dismissed but in the circumstances without costs. A

T.N.A.

Appeal dismissed. B