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K. VASUNDARA DEVI ETC.

v.

REVENUE DIVISIONAL OFFICER (LAO)

JULY 27, 1995

B

[K. RAMASWAMY AND K.S. PARIPOORNAN, JJ.]

Land Acquisition Act, 1894

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Land Acquisition for planned development—Compensation for—Determination of—Deduction of 40% market value of land—Factors taken into account for; Requirement of development charges—Extent of land—Held valid.

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For acquisition of large extent of lands, measuring 46 acres and 6 gunthas, the Trial Court determined compensation @Rs. 65,000 per acre and deducted 1/3rd value of the land towards development charges together with statutory benefits. The Reference Court enhanced the compensation to Rs. 1,20,000 per acre and deducted 1/4th value of the land towards development charges together with statutory benefits. On appeal the High Court upheld the market value of the lands at Rs. 1,20,000 per acre but deducted 40% of the value of the land. In so doing the High Court not only took into consideration the requirement of development charges but also placed reliance on exhibits X-1 to X-3 which were sale deeds of small extent of land of one guntha each when compared to lands under acquisition which were in large extent. The claimants preferred appeals before this Court challenging the validity of deduction made by the High Court while determining the compensation.

Dismissing the appeals, this Court

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HELD : When genuine and reliable sale deeds of small extents were considered to determine market value, the same will not form sole basis to determine market value of large tracks of lands. Sufficient deduction should be made to arrive at the just and fair market value of large track of land. Therefore, it is not a proper case for interference. [379-B-C]

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Administrator General of West Bengal v. Collector, Varanasi, AIR (1988) SC 943, relied on.

Vijay Kumar Moti Lal v. State of Maharashtra, [1981] 2 SCC 719; *Special Land Acquisition Officer, Vishakapatnam v. Smt. A. Mangale Gowri*, [1991] 4 SCC 218, held inapplicable. A

Bhagwathula Samanna and Others v. Special Tehsildar and Land Acquisition Officer, Vishakapatnam Municipality, AIR (1992) SC 2289, referred to. B

CIVIL APPELLATE JURISDICTION : Civil Appeal No.6808-10 of 1995 Etc.

From the Judgment and Order dated 15.12.92 of the Hyderabad High Court in A.S.No. 1833/85, Cross-Objections (S.R.No. 19817/92) & C.M.P. No. 10687 of 1992. C

K. Madhava Reddy, D. Ramakrishana Reddy and G. Prakash, for the Appellants.

G. Prabhakar for the Respondent. D

The following Order of the Court was delivered :

Leave granted.

These appeals are disposed of by common judgment since common question of law arises in this appeal. Notification under s.4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was published in the State Gazette on August 29, 1980 acquiring an extent of 46 acre 6 gunthas of land in Miryalaguda town in Nalgonda Dist. of A.P. for planned development by the Andhra Pradesh Housing Board. Possession thereof was taken on December 10, 1980 and the award was made on August 18, 1983 determining the compensation at the rate of Rs. 65,000 per acre and deducted 1/3rd towards developmental charges and fixed the compensation at Rs. 43,000 per acre with statutory benefits. On reference, the Subordinate Judge Suryapet in O.P. No. 20/84 enhanced the compensation to Rs. 1,20,000 per acre and deducted 1/4th towards developmental charges together with statutory benefits. On appeal to the High Court, while upholding the market value of the lands at Rs. 1,20,000 per acre, it had deducted 40% of the value of the land for developmental charges and also that fixation of the market value was based on exhibit X-1 to X-3 sale deed of small extent of one guntha each. Thus, these appeals by special leave E
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- A against the judgment and decree of the High Court in A.S.No. 1833/85 dated December 15, 1992 and batch.

Shri K. Madhava Reddy, the learned senior counsel for the appellant placing reliance on *Vijay Kumar Moti Lal v. State of Maharashtra*, [1981] 2 SCC 719 and *Special Land Acquisition Officer, Vishakapatnam v. Smt. A. Mangala Gowri*, [1991] 4 SCC 218 contended that this Court had upheld deduction of uniform rate of 1/3rd is required for developmental charges. The High Court, therefore, was not right in deducting 40% of value towards developmental charges. We think that the contention is not well-founded. The High Court has noticed in its judgment thus:

- C "However, as the sales under Exs. X-1 to X-3 are for very small extents when compared to the lands under acquisition and the acquisition is meant for the housing scheme of housing board, necessary deduction will have to be given for developmental charges and also for taking into consideration the sales which are for smaller plots while considering the fixation of market value for the lands under acquisition which are in a large extent."
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- E In view of this finding, the High Court had taken into consideration not only the requirements towards developmental charges but also when reliance is placed by the Court in Ex. X-1 to X-3, admittedly smaller extents of one guntha each which had fetched a market value at the rate of Rs. 1,20,000, necessary deduction need to be given. Taking these two factors into consideration, ultimately it deducted 40%, though loosely termed as "towards developmental charges". This Court in *Administrator General of West Bengal v. Collector, Varanasi*, AIR (1988) SC 943, has applied the twin
- F tests and held that 50% of the deduction should be made when the sale transaction relate to smaller extent of the lands were found to be genuine and relied on to determine the market value of a large track of land and 50% deduction was found to be reasonable in that case. The State did not file appeal against enhanced compensation or deduction.

- G In *Bhagwathula Samanna and Others v. Special Tehsildar and Land Acquisition Officer, Vishakapatnam Municipality*, AIR (1992) SC 2298, this Court had held that since lands are in developed area, no deduction towards developmental charges be made. In *Vijay Kumar Motil Lal's and Mangala Gauri cases* (supra), the only question was regarding deduction
- H for developmental charges. Sales relating to smaller pieces of land when

found to be germane Gujarat High Court deducted 60% of the value, this Court in *M/s. Hasanali Khanbhai & Sons & Ors. v. State of Gujarat*, C.A. No. 3263/79 dated July 26, 1995, upheld the deduction of 60% by the High Court. When genuine and reliable sale deeds of small extents were considered to determine market value, the same will not form sole basis to determine market value of large track of lands. Sufficient deduction should be made to arrive at the just and fair market value of large track of land. In that view of the law, we are of the considered opinion that ratio in the cases in which it was dealt with only about deduction of developmental charges of undeveloped large extent of land does not render any assistance in deciding the principle followed by the High Court in this matter. In view of the judgment of this Court in *Administrator General of West Bengal's case* (supra) and all subsequent decisions, we do not think that it is a proper case for interference.

The appeals are accordingly dismissed. No costs.

T.N.A.

Appeal dismissed.