

A SPECIAL LAND ACQUISITION OFFICER, BANGALORE

v.

SRI DYAVAPPA AND ORS.

AUGUST 29, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Land Acquisition Act, 1894 :

C *Land Acquisition—Compensation—Reference Court—Reliance on sale deed for similarly situated land and enhancement of compensation accordingly—confirmation of award by High Court—Held valid.*

Practice and procedure—Raising fresh plea in appeal before Supreme Court—Held not permissible.

D For acquisition of Ac.7.14 cents of land belonging to the respondents, the Collector awarded compensation for the agriculture land to the extent of Ac.5.20 cents @ Rs.12,000 per acre and for Ac.1.34 he awarded @ Rs. 1,000 per acre treating the same as phot kharab land. The Reference Court relied upon a sale deed dated February 24, 1975 for similarly
E situated lands purchased for setting up of a factory and awarded Rs. 42,500 per acre. The High Court confirmed the judgment of the Reference Court. Hence these appeals.

Dismissing the appeals, this Court

F HELD : 1. There is no force in the contention that award of compensation relying upon the sale deed dated February 24, 1975 was not justified because the lands under sale deed are situated away from the acquired lands and are thus not similarly situated. The High Court has considered the fact that the lands are nearer to the Bangalore-Mysore Road and near
G about the lands where Coca Cola factory is established. Finding these circumstances favourable to the respondents, the High Court confirmed the award of Reference Court. [145-E; G-H]

2. The contention that the courts below were not justified in awarding compensation at the rate of Rs. 42, 500 for Ac. 1.34 cents which is phot-
H kharab when the agriculture lands also had been awarded at the rate of

Rs. 42,500 per acre, cannot be agreed to because it was neither raised in the High Court nor was it raised in the ground of appeal in this Court.

[146-B-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2573-74 of 1980.

From the Judgment and Order dated 7.9.79 of the Karnataka High Court in M.F.A. Nos. 1198 & 1199 of 1978.

M. Veerappa for the Appellant.

S.S. Javali, Ranjit Kumar, Bimal Roy and J.Y. Mohan for the Respondents.

The following Order of the Court was delivered :

A notification under s.4(1) of the Land Acquisition Act (for short 'the Act') was published on October 6, 1975 acquiring Ac.7.14 cents of land near Bangalore for Agriculture University. Pursuant to the notice under ss.9 and 10, the respondents claimed compensation at the rate of Rs. 60,000 per acre. The Land Acquisition Collector awarded compensation for the agriculture land to the extent of Ac. 5.20 cents, @ Rs. 12,000 per acre and for Ac. 1.34, he awarded @ Rs. 1,000 per acre, treating the same as phot-kharab land. On reference under s.18, the Court relying upon a sale deed, Ext. P6 dated February 24, 1975 to an extent of Ac.1.8 cent sold at RS. 50,000 per acre which was purchased for setting up of a factory, awarded Rs. 42,500 per acre. Being dissatisfied, the appellant preferred appeal before the High Court, who by its impugned judgment dated September 7, 1979 confirmed the same, against which these appeals by special leave have been filed.

Two contentions have been raised by Mr. M. Veerappa, learned counsel for the appellant. First it is argued that in view of the fact that the lands under Ext. P.6 are situated at a distance of 2 to 3 furlongs from the acquired lands, it would be evident that those lands are not similarly situated and, therefore, awarding compensation at the rate of Rs. 42,500 per acre relying on Ext. P.6 is not justified in law. We find no force in the contention. The High Court has considered the fact that the lands are nearer to the Bangalore-Mysore Road and near about the lands where Coca Cola factory is established. Finding these circumstances favourable to the respondents, the High Court confirmed the award at the rate of Rs.

A 42,500 per acre.

B It was next contended that the Reference Court and the High Court were not justified in awarding compensation at the rate of Rs. 42,500 for Ac.1.34 cents which is phot-kharab when the agriculture lands also had been awarded at the rate of Rs. 42,500 per acre. Though *prima facie* we are impressed with this argument but, unfortunately, this contention was not raised in the High Court nor the High Court had advantage of going into this circumstance. Even the Reference Court judgment has not been made part of the record. Therefore, we are unable to know what are the grounds that weighed with the reference court to award compensation at the rate of Rs. 42, 500 for the phot-kharab land to the extent of Ac.1.34 cents. It is also to be seen that this point was not raised in the grounds of appeal in this Court.

C In these circumstances, we are constrained not to agree with the contentions raised by the appellant. The appeals are accordingly dismissed. No costs.

T.N.A.

Appeals dismissed.