ASSTT. COMMISSIONER-CUM-LAND ACQUISITION OFFICER, BELLARY

v.

SRI S.T. POMPANNA SETTY

DECEMBER 17, 2004

[RUMA PAL AND C.K. THAKKER, JJ.]

Land Acquisition Act, 1894 :

Land Acquisition—Compensation on yield basis—Determination of—Deduction towards cultivation cost adopting of appropriate multiplier—On facts, there being fruit bearing trees on the land and finding of High Court that land-owner would be entitled to more than the compensation claimed by him, award of compensation party modified.

Respondent's land admeasuring 5.99 acres, was acquired under the Land Acquisition Act, 1894. The Land Acquisition Officer awarded compensation at the rate of Rs. 2,728 per acre. The reference court found that there were fruit bearing trees on the land and held that if the income from fruit bearing trees was multiplied by capitalization of 15 years, the claimant would be entitled to more than rupees six lac. But as the land-owner had claimed rupees five lac only, the reference court held the said amount not to be unreasonable or excessive. The High Court affirmed the order.

In the appeal filed by the State it was contended that in view of the law laid down by the Supreme Court, the High Court erred in not deducting the amount towards expenses as also in confirming multiplier of 15 as applied by the reference court.

Allowing the appeal in part, the Court

HELD : 1. The instant case relates to fruit bearing trees and not agriculture. The trees were sufficiently old and grown up and were giving fruits. In the circumstances, there was not question of deduction of any amount towards expenses and the orders passed by the reference court and the High Court cannot be said to be incorrect. Moreover, the High Court also considered an important fact that the claimant would be

entitled to much more amount on yield-basis but as he had claimed an amount of rupees five lac, nothing more could be paid to him. It, therefore, cannot be said that by not deducting the amount of expenses for cultivation, the courts below had committed any illegality. [1175-B-C-D]

State of Gujarat **v.** *Rama Rana,* **[1987] 2 SCC 693, held inapplicable.**

2. Normally in the cases where compensation is awarded on yield basis, multiplier of 10 is considered proper and appropriate. In the case on hand, multiplier of 15 has been applied which is on a higher side. At the same time, however, it cannot be overlooked that the High Court considered the fact and observed that the claimant would be entitled to an amount of more than rupees six lac. Since he had restricted his claim to rupees five lac, he would not be entitled to an amount more than that. In the facts and circumstances, therefore, ends of justice would be met if claimant is allowed Rs. 4,75,000 along with interest as awarded to him by the reference court as well as by the High Court. [1176-E-F]

Krishi Utpadan Mandi Samiti **v.** *Malik Sartaj Wali Khan and Anr.,* **[2001] 10 SCC 660;** *Special Land Acquisition Officer* **v.** *Virupax Shankar Nadagond,* **[1996] 6 SCC 124 and** *Special Land Acquisition Officer* **v.** *Veerabhadarappa Special Land Acquisition Officer* **v.** *Veerabhadarappa,* **[1984] 2 SCC 120, relied on.**

Smt. Tribeni Devi **v.** *Collector of Ranchi,* **[1972] 1 SCC 48, referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8245 of 2004.

From the Judgment and Order dated 14.11.2002 of the Karnataka High Court in M.F.A. No. 270 of 1996 (LAC).

Sanjay R. Hegde for the Appellant.

Naresh Kaushik, Ms. Shilpa Chohan, S.C. Gupta and Mrs. Lalita Kaushik for the Respondent.

The Judgment of the Court was delivered by

THAKKER, J. : Delay condoned.

Leave granted. A

This appeal is directed against an order dated November 14, 2002 passed by the High Court of Karnataka at Bangalore in MFA No. 270 of 1996 (LAC). By the said order, the High Court dismissed the appeal filed by the appellant herein and confirmed the order passed by the Reference Court on September 11, 1995 in L.A.C. No. 72 of 1984. B

The facts in brief are that a piece of land bearing Survey No. 335/7, admeasuring 5.99 acres situated at Sovenahalli village, Sandur Taluk was acquired for restoration of Sovenahalli tank for the village. A notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was issued and published in Karnataka Gazette on October 7, 1982. After completion of the proceedings under the Act and after observing all formalities, the Land Acquisition Officer awarded compensation at the rate of Rs. 2,728 per acre to the claimant vide his award dated January 25, 1984. The claimant received the amount of compensation under protest and submitted an application under Section 18 of the Act requesting the Land Acquisition Officer to refer the matter to the court. The matter was accordingly referred to the Court of Civil Judge at Hospet. The Reference Court observed that the Land Acquisition Officer had not considered the fertility and potentiality of the acquired land with other lands in respect of which sale transactions were on record. It also stated that the land in question, as disclosed in the award, had irrigation facilities in view of the presence of two wells on the land. The Court also found that there were fruit bearing trees on the land — Mango 72, Margosa 10, Tamarind 60, Coconut 1, Sandal wood 1, Neerala 1, Hatti 1, Kanaga 1 and others 90. The Reference Court, after considering evidence of the claimant as well as his two witnesses, held that the claimant was entitled to enhanced compensation. Considering the income of fruit bearing trees, the Court held that if it is multiplied by capitalization of 15 years, the claimant would be entitled to an amount more than six lacs. In view of the fact, however, that the claimant had claimed compensation of Rs. five lacs, he would not be entitled to more. But the amount claimed by him cannot be said to be unreasonable or excessive and accordingly the said amount was awarded. The reference was thus allowed and the claimant was held entitled to Rs. five lacs along with interest as mentioned in the order. The said order was confirmed by the High Court which is challenged in the present appeal. C D E F G

We have heard learned counsel for the parties. The learned counsel H

A for the appellant raised two contentions. Firstly, he submitted that the High Court has committed an error of law in not deducting amount towards cost of cultivation. Secondly, it was contended that the Reference Court had erroneously applied multiplier of 15 for capitalizing the income. Such multiplier should not be more than 10. On both these grounds, therefore, B according to the learned counsel, the impugned order is liable to be set aside and the order passed by the Land Acquisition Officer deserves to be restored.

Learned counsel for the claimant, on the other hand, submitted that having considered the rival contentions of the parties and keeping in view C the evidence on record, the Reference Court enhanced compensation to be payable to the claimant and the High Court rightly did not think it proper to interfere with the said order. The present appeal, therefore, deserves to be dismissed.

Having given our anxious consideration to the submissions of the D parties and having considered the relevant decisions of this Court, we are of the view that the appeal deserves to be partly allowed.

So far as first point is concerned, the learned counsel for the appellant relied upon a decision of this Court in *State of Gujarat* v. *Rama Rana,* [1987] 2 SCC 693. In that case compensation was awarded to the claimant on yield E basis. There was no sufficient evidence as to the income from agriculture and the Reference Court noticed that the witnesses exaggerated the yield. In the circumstances, the Reference Court determined the market value after deducting 1/3rd towards cultivation expenses and awarded compensation on that basis. The High Court dismissed the appeal and confirmed the order. F The State approached this Court. Allowing the appeal and reducing the amount of compensation, this Court observed that it is common knowledge that expenditure is involved in raising and harvesting the crop and on an average, 50% of the value of the crop realized would be spent towards cultivation expenses. Deduction of 1/3rd, in the circumstances, was improper in determining the compensation of the land on the basis of yield. G The Court also applied multiplier of 10.

Learned counsel for the appellant submitted that in the instant case, no deduction whatsoever has been made by the Reference Court or by the High Court. It was submitted that only on the basis of yield and gross income, H the Reference Court granted compensation to the claimant which was con-

firmed by the High Court. He, therefore, submitted that the award deserves interference.

Learned counsel for the claimant, on the other hand, submitted that the ratio laid down in *Rama Rana* does not apply to the facts of the case. The case on hand relates to fruit bearing trees and not agriculture. It is in evidence that the trees were sufficiently old and grown up and were giving fruits and it has been deposed by the claimant and his witnesses. Thus, there was evidence on record to that effect. In the circumstances, there was no question of deduction of any amount towards expenses and the orders passed by the Reference Court and by the High Court cannot be said to be incorrect.

In the facts and circumstances, in our opinion, the ratio laid down in *Rama Rana* would not *stricto sensu* apply in the present case inasmuch as in fruit growing trees the expenses would not be 50% as held by this Court. Moreover, the High Court also considered an important fact that the claimant would be entitled to much more amount on yield-basis but as he had claimed an amount of Rs. five lacs, nothing more could be paid to him. It, therefore, cannot be said that by not deducting the amount of expenses for cultivation, the courts below had committed any illegality. The first contention, therefore, in the facts of the case, is rejected.

Let us now consider the second point. This Court in *Special Land Acquisition Officer, Bangalore* v. *T. Adinarayan Setty,* AIR (1959) SC 429 held that in awarding compensation under the Act, the Court has to ascertain market value of the land at the date of notification under Section 4(1) of the Act. It was observed that there were several methods of valuation, such as (1) opinion of experts, (2) the price paid within a reasonable time in *bona fide* transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages, and (3) a number of years purchase of the actual or immediately prospective profits of the land acquired.

In *Smt. Tribeni Devi* v. *Collector of Ranchi,* [1972] 1 SCC 480, this Court reiterated the methods of valuation and also stated that those methods do not preclude the Court from taking into consideration other circumstances, the requirement being always to arrive at the nearest correct market value. It was also indicated that in arriving at a reasonably correct market value, it may be necessary to take even two or all of those methods into

A account since the exact valuation is not always possible as no two lands would be the same either in respect of the situation or the extent or the potentiality nor it would be possible in all cases to have reliable material from which such valuation can be accurately determined.

B In *Special Land Acquisition, Davangere* v. *P. Veerabhadarappa & Others,* [1984] 2 SCC 120, this Court held that when capitalization method for valuation is applied, proper multiplier should be 10. As in that case, the State Government submitted that proper multiplier was 12½, the computation was made on that basis. Similarly, in *Special Land Acquisition Officer* v. *Virupax Shankar Nadagouda,* [1996] 6 SCC 124, relying on *P.* C *Veerabhadarappa,* this Court determined compensation on the basis of 10 years' multiplier. Again, in *Krishi Utpadan Mandi Samiti* v. *Malik Sartaj Wali Khan and Another,* [2001] 10 SCC 660, this Court held that computation of compensation for determination of market value may be carried out on yield basis and multiplier of 10 should be applied. Since multiplier of 20 was applied by the High Court, it was set aside by this Court by D reducing the amount of compensation.

From the above cases, it is clear that *normally* in the cases where compensation is awarded on yield basis, multiplier of 10 is considered proper and appropriate. In the case on hand, multiplier of 15 has been E applied which is on a higher side. To that extent, therefore, the submission of the learned counsel for the appellant is well founded and deserves to be accepted. At the same time, however, it cannot be over looked that the High Court considered the fact and observed that the claimant would be entitled to an amount of more than Rs. six lacs. Since he had restricted his claim to Rs. five lacs, he would not be entitled to an amount more than that. In F the facts and circumstances, therefore, in our opinion, ends of justice would be met if we hold that the claimant would be entitled to Rs. 4,75,000 (Rupees four lacs seventy five thousand only) along with interest as awarded to him by the Reference Court as well as by the High Court.

G For the foregoing reasons, in our opinion, the appeal deserves to be partly allowed and is allowed by reducing the amount of compensation to Rs.4,75,000 (Rupees four lacs seventy five thousand only). The rest of the directions are not disturbed. In the facts and circumstances of the case, there shall be no order as to costs.

H R.P. Appeal partialy allowed.