

Special Land Acquisition Officer, ... vs B.M. Krishnamurthy on 22 January, 1985

Equivalent citations: 1985(1)SCALE1170, (1985)1SCC469, 1985(17)UJ344(SC)

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Bench: O. Chinnappa Reddy, R.B. Misra

JUDGMENT

O. Chinnappa Reddy, J.

1. All the three cases before us arise out of land acquisition proceedings. The result of SLP 3450 of 1974 is entirely dependent on the result of Civil Appeal No. 1127 of 1974 while the result of Civil Appeal No. 992 of 1971 is partly dependent on the result of Civil Appeal No. 1127 of 1974. We therefore, consider it desirable to deal with Civil Appeal No. 1127 of 1974 first.

2. Pursuant to a notification dated 2nd May, 1962 under Section 4(1) of the Land Acquisition Act, lands in the village of Byappanahalli were acquired for the purpose of construction of a Marshalling yard for the Railway. Out of the total extent of land so acquired except a parcel of 4 acres and 20 guntas and another parcel of 1 acre and 13 guntas which are respectively the subject matter of Civil Appeal No. 1127 of 1974 and SLP No. 3450 of 1974, the rest of the lands were agricultural lands. These two parcels of land had been permitted by the appropriate authorities to be converted for non-agricultural use. The Land Acquisition Officer awarded compensation at the rate of Rs. 5,000/- an acre in respect of dry lands, Rs. 10,000/- an acre in respect of wet and garden lands and Rs. 750/- an acre in respect of Kharab lands. References were made to the Civil Court under Section 18 of the Land Acquisition Act. The Civil Judge awarded compensation at the rate of Rs 6/- per square yard in respect of unconverted agricultural land. He valued the land which had been permitted to be converted for use as non-agricultural land at the rate of Rs. 18/- per square yard. The State of Karnataka preferred appeals to the High Court of Karnataka and by their judgment dated 18.10.73 a Division Bench consisting of Govinda Bhat, C.J. and Srinivasa Iyenger, J. after noticing the indifferent attitude displayed by the Land Acquisition Officer at the trial of the references and the manner in which the cases were conducted by the Government Pleader on behalf of the Government, examined the question in great detail and reduced the compensation to Rs. 15,000/- per acre in the case of Agricultural lands and Rs. 22,000/- per acre in the case of lands whose use for non-agricultural purposes was sanctioned. In a few of the cases the fine required to be paid for converting agricultural land for non-agricultural use had not been paid by the owners of the land and in such cases the compensation stood reduced by sum of Rs. 3,000/- per acre (the amount of fine required to be paid by the owners).

3. The owners of the lands whose use for non-agricultural purpose had been permitted by the authorities have filed the present Civil Appeal No. 1127 of 1974 and SLP No. 3450 of 1974.

4. Though the compensation awarded for agricultural land is not directly in issue in Civil Appeal No. 1127 of 1974 and SLP No. 3450 of 1974, it is necessary to consider the same in determining the compensation to be awarded for lands whose use for non-agricultural purposes has been sanctioned. In considering the compensation to be awarded for agricultural lands the High Court took notice of the circumstance that the lands had great potential value for building purposes on account of their excellent location. Even so the High Court was struck by the outstanding circumstance that most of the owners of the lands claimed compensation at the rate of no more than Rs. 15,000/- per acre for unconverted land. The High Court was impressed by the evidence of one of the claimants, C. W. 5 who was the Patel of the village and could therefore be credited with full knowledge of the potential value of the land in the village and who, besides, had himself sold as many as 86 plots of land as house sites in survey No. 118 of Byappanahalli village. This gentleman who had himself sold small plots of lands in the same area a few months earlier for a higher price and who could therefore, be expected to know the value of land when sold in small plots or in large tracts, claimed only Rs. 15,000/- per acre for the land acquired from him in these proceedings. The High Court was therefore, totally justified in awarding compensation at the rate of Rs. 15,000/- per acre for agricultural lands.

5. Having arrived at that conclusion, the High Court went on to state that the Land Revenue Code required the payment of a fine of Rs. 3,000/- per acre for permitting the conversion of the user, of the land from agricultural to non-agricultural. Taking that into account and making a provision for a 20% rise in price on the basis of the documentary evidence produced before the Court, the High Court thought that compensation at the rate of Rs. 22,000/- per acre was adequate and reasonable for land the user of which had been permitted to be converted from agricultural to non-agricultural. We think that the conclusion of the High Court is unassailable. The learned counsel for the Appellant took us through the evidences of the several witnesses examined by the claimants and urged that their evidence showed that in 1961 plots of land in the area had been sold at the rate of Rs. 7.50/- per square yard and that the land value had increased fourfold since then. The High Court noticed this evidence and pointed out that the evidence related to small plots of land of the size of 30 ft.x40 ft. and not large tracts of land and, that the evidence relating to the alleged steep rise in price was vague since it appeared from the evidence of the witnesses that they were referring to the rise in price as on the date when they were giving evidence in court. We are therefore, unable to accept learned counsel's criticism of the judgment of the High Court. We have no hesitation in affirming the judgment of the High Court which is the subject matter of Civil Appeal No. 1127 of 1974 and SLP No. 3450 of 1974 which are accordingly dismissed. The learned counsel tried to make a point before us that the appeals by the State to the High Court of Karnataka were filed beyond the period of limitation and that the delay ought not to have been condoned. He urged that the dates of the certified copies of the judgment filed in the High Court by the State were so tampered with as to make it appear that the appeals were filed within the period of limitation. It appears that someone did tamper with the dates found on the certified copies but it was found difficult to fix the blame on anyone in particular. Having regard to the entirety of the circumstances, the High Court thought that the State should not be penalised for the lapses of some of its officers and that in the particular

circumstances there were sufficient grounds justifying the condensation of delay in filing the appeals. It was a matter for the discretion of the High Court We are unable to say that the discretion was improperly exercised. Civil Appeal No. 1127 of 1974 and SLP No. 3450 of 1974 are therefore, dismissed but in the circumstances without costs.

6. In Civil Appeal No. 992 of 1971, land of the extent of 8 acres and 11 guntas in survey No. 14 of Bennegenahalli village was acquired pursuant to a notification dt. 23.6.1984 under Section 4(1) of the Land Acquisition Act for the purpose of extension of the New Government Electric Factory (NGEF). We may mention here that the NGEF was started in the year 1961 and several lands of the villages of Bynappa-halli and Bennegenahalli were acquired for the purpose of NGEF and the present Acquisition was for its expansion. The Trial Court noticed that the acquired land was ideally situated for industrial purposes, that in fact the owner of the land was himself anxious to use it for an industrial purpose and had also acquired a licence for erecting a factory for the manufacture of Television aerials. The Trial Court referred to three sale deeds exhibits P-2, P-3 and P-4 and came to the conclusion that the value of the land would not be less than Rs. 50,000/- per acre. The Trial Court also referred to exhibit P-15 a certified copy of the judgment of the High Court in respect of acquisition of land in Domlur village pursuant to a notification dated May 9, 1968 by which judgment compensation was awarded at the rate of Rs. 12/- per square yard for converted land. On the basis of these documents the Trial Court awarded compensation at the rate of Rs. 20/- per square yard, though the Trial Court also noticed the circumstance that the claimants had not placed before the court, any sale deed to show the value of land suitable for industrial purpose with similar advantages as those possessed by the acquired land. On appeal the High Court affirmed the judgment of the Trial Court. The High Court placed primary reliance on the judgment of the Civil Judge in the cases which are the subject matter of Civil Appeal No. 1127 of 1974 and SLP No. 3450 of 1974 This judgment had been pronounced subsequent to the judgment of the Trial Court and was, therefore, received by them as additional evidence despite the objection of the Government. The High Court proceeded on the basis that the judgment of the Civil Judge in those cases had become final as no appeals had been filed against the judgment until then. As it now turns out, appeals were in fact filed by the State against that judgment and allowed by the High Court We have just now affirmed the judgment of the High Court. Therefore, the primary basis of the judgment of the High Court under appeal in Civil Appeal No. 992 of 1971 disappears. However, it is only fair to state that the High Court noticed three further circumstances. The first was that the acquired land was the only land available in the vicinity for industrial expansion, all other land in the area having already been used up. The second circumstance was that land had been sold between 1959 and 1961 at the rate of Rs. 7.50/- per square yard under exhibits P2, P3 and P4. The third circumstance was that compensation had been awarded at the rate of Rs. 12/- per square yard in the case of land acquired on May 9, 1968 under Exhibits P 15. So far as the second circumstance is concerned, the High Court have themselves noticed that the lands dealt with by Exhibits P2, P3 and P4 are in the village of Bennegenahalli and that they are not comparable to the acquired land. We also notice that the lands sold under Exhibits P2, P3 and P4 are small plots of land which would naturally fetch a high price. We further notice that the lands sold under P2, P3 and P4 are according to the evidence in the case, further away from the limits of the Bangalore Corporation than the acquired lands. In regard to Exhibit P 15 we notice that it relates to land in Domlur village. There is no basis for the assumption made by the High Court that the acquired land possesses the same or similar advantages as those

possessed by the Dornlur land. Admittedly the Domlur land is at a distance of about one mile from the acquired land and is located very near the HAL factory, an already developed area. Further we notice that the Trial Court has itself pointed out that the Domlur lands are within the Corporation Limits while the acquired lands are outside the Corporation Limits. The Trial Court appears to have thought that it was a circumstance which enhances the value of the acquired lands. On the other hands one would have thought that lands which are nearer the Corporation Limits or within the Corporation Limits would be more valuable than lands outside the Corporation Limits. Having regard to the totally different location of the Domlur lands and the acquired lands we do not think that we will be justified in taking Exhibit P 15 into consideration as comparable. We are thus left with the circumstance that the acquired land was the only land available in the vicinity for industrial purposes and had therefore, acquired a special value. This circumstance is established by the evidence and so far as the acquired land was concerned it was what we may call a seller's market. In the evidence it was also brought out that between the years 1962 and 1964, that is between the date of acquisition which was the subject matter of Civil Appeal No. 1127 of 1974 and the date of acquisition which is the subject matter of 992 of 1974 the price of land fit for industrial use had almost doubled which may perhaps be a slight exaggeration. But having regard ,to the special features of the land to which we have referred arid the admitted fast and steady rise of price of land for industrial use, we may perhaps be justified in awarding compensation for this bit of land at roughly about two and half times the compensation awarded for the land which was the subject matter of Civil Appeal No. 1127 of 1974. We are therefore, of the view that compensation at the rate of Rs. 12.50/- per square yard may justly be awarded for this land in the peculiar circumstance of the case that it was the only land available in the area for industrial expansion. In the result the appeal filed by the special land acquisition officer of Bangalore is allowed to this extent that the compensation awarded is reduced from Rs. 20/- per square yard to Rs. 12.50/- per square yard. The judgment and decree of the High Court are accordingly modified. There is no order regarding costs. We add that no argument was advanced before us on the basis of the recent amendments of the Land Acquisition Act.