

A.S.Krishna And Co. Pvt. Ltd vs Land Acquisition Officer(Deputy ... on 19 November, 1991

Equivalent citations: 1992 AIR 421, 1991 SCR SUPL. (2) 375, AIR 1992 SUPREME COURT 421, 1992 AIR SCW 9, (1992) 1 LS 4, 1992 (1) SCC 141, (1991) 4 JT 530 (SC), (1992) 6 LACC 183, (1992) 1 LANDLR 14, (1991) 2 RRR 482, (1992) 19 ALL LR 47, (1992) 1 ALL WC 136, (1992) 1 CURCC 298

Author: Rangnath Misra

Bench: Rangnath Misra, S. Mohan

PETITIONER:

A.S.KRISHNA AND CO. PVT. LTD.

Vs.

RESPONDENT:

LAND ACQUISITION OFFICER(DEPUTY COLLECTOR) HYDERABAD

DATE OF JUDGMENT19/11/1991

BENCH:

MISRA, RANGNATH (CJ)

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MISRA, RANGNATH (CJ)

MOHAN, S. (J)

CITATION:

1992 AIR 421

1991 SCR Supl. (2) 375

1992 SCC (1) 141

JT 1991 (4) 530

1991 SCALE (2)1186

ACT:

Land Acquisition Act. 1894.'

S. 4 (1) Compensation--Determination of--Deduction of
Development cost--Validity of

HEADNOTE:

Certain plots of land of the appellant were acquired by notifications dated 12.1.1978, 27.7.1978 and 14.6.1979 issued under s.4(1) of the Land Acquisition Act, 1894. The Land Acquisition Officer by an order dated 10.6.1982 fixed the market value at Rs. 42,000 per acre with 5 per cent deduction towards development cost.

In appellant's appeal the Civil Court fixed the market

value at Rs.200 per sq. yard with a deduction of 5 per cent towards the development charges.

On the appeal by the land acquisition officer, the High Court reassessed the entire evidence and fixed the market value at Rs.3 lakh per acre holding that if a deduction of 20 per cent was allowed, the market value would come to Rs.2,40,000 per acre which worked out at Rs.50 per sq.yard, and accordingly set aside the judgment and decree, and determined the market value at Rs.50 per sq.yard.

Dismissing the appeals of the appellant-claimant this Court,

HELD: 1. In fixing the compensation, the High Court did not go by the percentage of deduction but kept in view the market value of the land at the time of the notification under s.4(1) of the Land Acquisition Act, 1894. [p. 377 F]

2. There was clear material and the High Court accepted it that price went up in the area after 1980. The notifications were within a range of a year or two from that time. Therefore, the valuation after 1980 was not the guideline. [p. 377 F-G]

376

3. In the instant case, the Collector had adopted a deduction of five per cent. The referee Court adopted the deduction at 20 per cent and the High Court rejecting the claim of the Advocate General that deduction should be one-third put it at one-fifth. The High Court did not go by the percentage of deduction. The appropriate market value fixed by the High Court per sq. yard was Rs 50 and if a 20 per cent deduction from out of Rs.3 lakhs per acre was accepted, it worked that way. The finding of the High Court need not be disturbed. [p. 377 E-G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.4538-39 of 1991.

From the Judgment and Order dated 23.3.1990 of the Hyderabad High Court in C.C.A. Nos. 54 & 55 of 1987.

Ashok K.Gupta for the Appellant.

Ms. Suruchi Agrawal and T.V.S.N.Chari for the Respondents- The Judgment of the Court was delivered by RANGANATH MISRA, CJ. Special leave granted. By notification dated 12th January, 1973, under Section 4(1) of the Land Acquisition Act, 1894 as modified by Notification of 27th July, 1978, 26 acres and 26 gunthas of land located within the Hyderabad District was notified for acquisition for the Bhagyanagar Urban Development Authority. A similar notification was published on 14th June, 1979 for acquisition of two acres and 29 gunthas. The Land Acquisition Officer made his award for both the properties on 10th June, 1982 fixing the market value at Rs. 42,000 per acre with five per cent deduction towards development cost. Being dissatisfied with the awards passed by

Land Acquisition Officer, a reference was sought and made under section 18 of the Act. The Claimants demanded compensation at the rate of Rs. 200 per square yard. The Civil Court fixed the market value at Rs.200 per sq.yd. as demanded but directed deduction of 20 per cent towards development charges. The Land Acquisition Officer carried appeals against the escalation of compensation and the present appellants preferred cross objections. The High Court reassessed the entire evidence and came to hold.

"Today the position of the acquired lands is altogether different. It is common knowledge that the prices started soaring high from 1980 onwards and this part of Hyderabad, namely, Gaddiannaram started developing from 1980 and today it is undoubtedly one of the important areas in Hyderabad. But we must consider the position as it stood in 1978 and 1979. Taking all the circumstances into account, we think it reasonable to fix the market value at Rs. 3 lakhs per acre. The Civil Court had given a deduction of 20 per cent towards development charges.

The learned Advocate General contended that deduction should be enhanced to 33-1/3 per cent. We do not think that any interference is called for in this regard. The lands are abutting the highway. Evidence shows that there are roads on three sides. Hence, we maintain the deduction of 20 per cent and if so done, the market value comes to Rs.2,40,000 which works out at Rs. 50 per sq.yd. The Trial Court has awarded Rs.200 per sq.yd with a deduction of 20 per cent which comes to Rs. 160 per sq.yd. We are unable to sustain the order of the Court below on any justifiable grounds. We accordingly set aside the judgment and decree and determine the market value at the rate of Rs.50 per sq.yd "

It is against this deduction in compensation that the claimants have come to this court in appeal. The Collector had adopted a deduction of five per cent. The referee court adopted the deduction at 20 per cent and the High Court rejecting the claim of the Advocate General that deduction should be one-third put it at one-fifth. We find that the High Court did not go by the percentage of deduction. In fact, according to the High Court and particularly as the portion we have extracted above would show the appropriate market value per square yard was Rs. 50 and if a 20 per cent deduction from out of Rs. 3 lakhs per acre was accepted, it worked out that way. The Judgment of the High Court gives us the impression that in fixing the compensation, the High Court did not go by the percentage of deduction but kept in view the market value of the land at the time of the notification under section 4(1) of the Act. There is clear material and the High Court has accepted it that price went up in the area after 1980. The notifications are within a range of a year or two from that time. Therefore, the valuation after 1980 is not the guideline. Having looked into the material accepted by the High Court, we are not in a position to disturb the finding recorded by the High Court. The appeals are accordingly dismissed. No costs.

R.P.
dismissed.

Appeals

