

K. Vasundara Devi vs Revenue Divisional Officer ... on 27 July, 1995

Equivalent citations: 1995 AIR 2481, 1995 SCC (5) 426, AIR 1995 SUPREME COURT 2481, 1995 (5) SCC 426, 1995 AIR SCW 3655, 1995 AIR SCW 3653, 1995 ALL. L. J. 1795, (1995) 3 CIVLJ 681, (1995) 2 CURLJ(CCR) 357, (1995) 3 ALL WC 1782, (1995) 3 CURCC 301, (1995) 2 RAJ LW 123, (1995) 2 RENTLR 442, (1996) 1 LANDLR 76, (1995) 3 SCJ 447, (1995) 6 JT 96 (SC)

Author: K. Ramaswamy

Bench: K. Ramaswamy, K.S. Paripoornan

PETITIONER:

K. VASUNDARA DEVI

Vs.

RESPONDENT:

REVENUE DIVISIONAL OFFICER (LA0)WITHCIVIL APPEAL NOS. 6811-1

DATE OF JUDGMENT27/07/1995

BENCH:

RAMASWAMY, K.

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RAMASWAMY, K.

PARIPOORNAN, K.S.(J)

CITATION:

1995 AIR 2481

1995 SCC (5) 426

1995 SCALE (4)631

ACT:

HEADNOTE:

JUDGMENT:

O R D E R 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 acres 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 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 Vs. State of Maharashtra, [(1981) 2 SCC 719] and Special Land Acquisition Officer, Vishakapatnam vs. 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 :

"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."

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 vs. Collector, Varanasi, [AIR 1988 SC 943], has applied the twin 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.

In Bhagwathula Samanna and Others Vs. Special Tahsildar 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 Mangal Gauri cases [supra], the only question was regarding deduction 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.