

A ANIL KUMAR SOTI

v.

STATE OF UTTAR PRADESH THROUGH
COLLECTOR BIJNORE (UP)

B (Civil Appeal No. 6919 of 2021)

NOVEMBER 23, 2021

[M. R. SHAH AND SANJIV KHANNA, JJ.]

Land Acquisition Act, 1894: s. 4 – Land acquisition – Market

- C *value/Compensation – Determination of – Held: While determining the market value/compensation, previous instances of acquisition in proximity for location and potential of land acquisition along with cumulative increase is relevant consideration – On facts, in respect of land acquired by notification 16.05.1981, claimant justified in seeking compensation of Rs.15,402/- per acre – Reliance placed upon the judgment and award passed by the Reference Court awarding compensation at Rs.15,402/- per acre, in another case with respect to the acquisition of the land of the very same village, by notification dated 19.12.1981, considering the sale deed exemplar dated 23.12.1980 – Time gap between two notifications u/s. 4 only seven months and there were no material changes during the said period – Furthermore, judgment and award passed by the Reference Court in that case determining the compensation at Rs.15,402/- per acre has attained the finality and the State has accepted the same, thus, the appellants entitled to compensation at Rs.15,402/- per acre.*
- F **Allowing the appeal, the Court**

HELD: In the instant case, notification under Section 4 of the Land Acquisition Act, 1894 has been issued on 16.05.1981 by which the High Court has determined the compensation at

- G *Rs.7,100/- per acre. However, with respect to the land acquired of the very same village for which the notification under Section 4 of the Act was issued on 19.12.1981, the Reference Court in another case determined and awarded the compensation at Rs.15,402/- per acre. Having gone through the judgment and award passed by the Reference Court in another case determining the compensation at Rs.15,402/- per acre, the Reference Court*
- H *the compensation at Rs.15,402/- per acre, the Reference Court*

had considered the sale deed exemplar of the year 1978. A
Therefore, it is not the case that in another case the sale deed
exemplar relied upon was for the period between 16.05.1981
(acquisition of the land in the instant case) and 19.12.1981 (date
of acquisition in another case). As per the settled preposition of
law while determining the market value/compensation, previous
instances of acquisition in proximity for location and potential of
land acquisition along with cumulative increase is relevant
consideration. In the instant case, time gap between two
notifications under Section 4 of the Act is only seven months.
Nothing has been pointed out with respect to any material changes
for the period between 16.05.1981 and 16.12.1981, time gap
between the two notifications under Section 4 of the Act. The
judgment and award passed by the Reference Court in that case
determining the market value/compensation at Rs.15,402/- per
acre has attained the finality and the State has accepted the same
by withdrawing the appeal against the said judgment and award.
Therefore, in the instant circumstances, the appellants would be
entitled to the compensation at Rs.15,402/- per acre with all other
statutory benefits. The impugned judgment and order passed by
the High Court is hereby modified. [Para 7, 8][437-D-H; 438-A-
D]

CIVIL APPELLATE JURISDICTION: Civil Appeal No.6919 of E
2021.

From the Judgment and Order dated 16.04.2019 of the High Court
of Judicature at Allahabad in First Appeal No.440 of 1989.

Piyush Sharma, Adv. for the Appellants. F

Sakha Ram Singh, Sr. Adv., Rajeev Kumar Dubey, Ashiwan
Mishra, Kamlendra Mishra, Advs. for the Respondent.

The Judgment of the Court was delivered by

M. R. SHAH, J. G

1. Feeling aggrieved and dissatisfied with the impugned judgment
and order dated 16.04.2019 passed by the High Court of Judicature at
Allahabad in First Appeal No. 440 of 1989, by which the High Court has
partly allowed the said appeal preferred by the appellants herein – original
claimants and has determined the market value of the lands acquired at H

- A Rs.7,100/- per acre only, original land owners have preferred the present appeal.
2. That the appellants' lands situated at village Rawali came to be acquired for public purpose. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) was issued on
- B 16.05.1981. The Land Acquisition Officer declared the award and determined the compensation at Rs.5,218.39/- per acre. At the instances of the claimants a Reference was made to the District Court under Section 18 of the ACT claiming compensation of Rs.12,000/- per acre. The Reference Court enhanced the compensation from Rs.5,218.39/- per acre to Rs.6,696.70/- per acre with all other statutory benefits which may be available under the Act. The appellants herein preferred the appeal before the High Court. The claimants prayed the compensation of Rs.15,402/- per acre relying upon the judgment and award passed by the Reference Court in another case with respect to the acquisition of the land of the very village, but with respect to the notification issued
- D under Section 4 of the Act dated 19.12.1981. That by the impugned judgment and order and relying upon and considering the sale deed exemplar dated 23.12.1980, the High Court has partly allowed the said appeal and has determined and awarded the compensation at the rate of Rs.7,100/- per acre.
- E 3. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, enhancing the amount of compensation to Rs.7,100/- per acre only the original claimants have preferred the present appeal.
4. Learned Counsel appearing on behalf of the appellants – original
- F claimants has vehemently submitted that the High Court has materially erred in determining and awarding the compensation of Rs.7,100/- per acre only.
- G 4.1 It is submitted that for the acquisition of the land of the very village but notification under Section 4 of the Act was issued on 19.12.1981 the Reference Court determined and awarded the compensation at Rs.15,402/- per acre. It is submitted that the Reference Court in that case relied upon the sale deed exemplar of the year 1978 and thereafter determined the market value of the compensation at Rs. 15,402/- per acre. It is submitted that the appeal against the judgment and award passed by the Reference Court in that case determining and
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awarding the compensation at Rs.15,402/- per acre has been subsequently withdrawn. It is submitted that therefore the Government has accepted the judgment and award passed by the Reference Court with respect to the land acquired of the same village but for which the notification under Section 4 of the Act was issued on 19.12.1981. It is submitted that therefore the appellants are also entitled to the compensation of Rs.15,402/- per acre.

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5. Learned counsel appearing on behalf of the respondent – State has submitted that in the present case the High Court has rightly determined the compensation at Rs.7,100/- per acre considering the sale deed exemplar dated 23.12.1980 which as such can be said to be proximate/nearer to the date of the acquisition of the land. It is submitted that therefore the interference of this court in exercise of power under Article 136 of the Constitution of India is not called for.

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6. We have heard the learned counsel appearing for the respective parties at length.

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7. At the outset, it is required to be noted and it is not in dispute that in the present case notification under Section 4 of the Act has been issued on 16.05.1981 by which the High Court has determined the compensation at Rs.7,100/- per acre. However, it is required to be noted that with respect to the land acquired of the very same village for which the notification under Section 4 of the Act was issued on 19.12.1981, the Reference Court in another case determined and awarded the compensation at Rs.15,402/- per acre. Having gone through the judgment and award passed by the Reference Court in another case determining the compensation at Rs.15,402/- per acre (which is heavily relied upon by the claimants in the present case) the Reference Court had considered the sale deed exemplar of the year 1978. Therefore, it is not the case that in another case the sale deed exemplar relied upon was for the period between 16.05.1981 (acquisition of the land in the present case) and 19.12.1981 (date of acquisition in another case). As per the settled preposition of law while determining the market value/compensation, previous instances of acquisition in proximity for location and potential of land acquisition along with cumulative increase is relevant consideration. In the present case, time gap between two notifications under Section 4 of the Act is only seven months. Nothing has been pointed out with respect to any material changes for the period between 16.05.1981 and 16.12.1981 - time gap between the two notifications

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- A under Section 4 of the Act. On the contrary, after the judgment and award passed by the Reference Court with respect to the land acquired of the same village for which notification under Section 4 was issued on 19.12.1981, the Reference Court determined the compensation at Rs.15,402/- per acre. The Reference Court in that case relied upon the sale deed exemplar of 1978. The judgment and award passed by the Reference Court in that case determining the market value/compensation at Rs.15,402/- per acre has attained the finality and the State has accepted the same by withdrawing the appeal against the said judgment and award. Therefore, in the present circumstances, the appellants shall be entitled to the compensation at Rs.15,402/- per acre.
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- C 8. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order passed by the High Court is hereby modified and it is held that appellants shall be entitled to the compensation for land acquired at Rs.15,402/- per acre with all other statutory benefits which may be available under the Act
- D subject to payment of deficient Court fees, if any. The present appeal is allowed accordingly. In the facts and circumstances of the case there shall be no order as to costs.

Nidhi Jain

Appeal allowed.