

SPECIAL LAND ACQUISITION OFFICER AND ORS.

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v.

N. SAVITHA

(Civil Appeal Nos. 2052-2053 of 2022)

MARCH 22, 2022

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[M. R. SHAH AND B.V. NAGARATHNA, JJ.]

Land Acquisition Act, 1894: Compensation – Determination of – s.4 Notification issued in the year 2008 for acquisition of land for improvement of Bird Sanctuary– Award of compensation – Dissatisfied with quantum of compensation, land- owner filed appeal before High Court – Land-owner relied upon document (Ex.P.17) by which for the land acquired in the year 2011, the amount of compensation was awarded @ Rs.60 lakhs per acre – Mainly relying on Ex P.17 and thereafter on “guesswork” by impugned judgment, High Court enhanced the amount of compensation to Rs.40 Lakhs per acre – Aggrieved State filed instant appeal – Held: Award Ex.P.17, which was relied upon by the High Court was for the acquisition subsequent to the land acquired in the instant case, i.e. after a period of three years and, therefore, High Court ought not to have relied upon the same while determining the market price of the land acquired in 2008 – Moreover, Ex.P.17 was a consent award – The consent award ought not to have been relied upon and/or considered for determining the compensation in case of another acquisition – Even otherwise, High Court determined the compensation relying upon Ex.P.17 mechanically – High Court did not at all consider whether the lands acquired in the instant case was similarly situated to the lands acquired in the case of Ex.P.17 – Matter remanded to High Court to decide the first appeals afresh in accordance with law and on their own merits and thereafter to determine the market price/compensation.

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Land Acquisition Act, 1894: Comparable sales – There may be different market prices/compensation with respect to different lands, may be in the same village and/or nearby location – The land, which is on a prime location and which is on the highway and/or at a proximity to a highway may have a different market price than the land which is situated in a different location/interior

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A *of the village and which might not have a good potential for development.*

Allowing the appeals and remitting the matter to High Court, the Court

B **HELD: 1. The award – Ex.P.17 was a consent award and was in respect of the property acquired in the year 2011 and which was acquired for a different purpose, namely, for formation of double line railway broad gauge between Bengaluru and Mysore City. But in this case, Section 4 notification was issued in the year 2008, i.e., three years before the land acquired in the case of Ex.P.17. Therefore, the High Court ought not to have relied upon the same while determining the market price of the land acquired in 2008 considering the market price determined for the lands acquired in the year 2011 and on the basis of some “guesswork”. [Para 4][810-F-H; 811-A]**

D **2. Even otherwise, Ex.P.17 was a consent award. The consent award ought not to have been relied upon and/or considered for the purpose of determining the compensation in case of another acquisition. In case of a consent award, one is required to consider the circumstances under which the consent award was passed and the parties agreed to accept the compensation at a particular rate. In a given case, due to urgent requirement, the acquiring body and/or the beneficiary of the acquisition may agree to give a particular compensation. Therefore, a consent award cannot be the basis to award and/or determine the compensation in other acquisition, more particularly, when there are other evidences on record. Therefore, the High Court erred in determining the compensation @ Rs.40 lakhs per acre relying upon the award – Ex.P.17 in respect of the land which was for the lands acquired in the year 2011. [Para 5][811-B-D]**

G **3. Even otherwise, the High Court determined the compensation relying upon Ex.P.17 mechanically. The High Court did not at all consider whether the lands acquired in the present case was similarly situated to the lands acquired in the case of Ex.P.17. As per the settled position of law, there may be different market prices/compensation with respect to different lands, may**

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be in the same village and/or nearby location. The land, which is on a prime location and which is on the highway and/or at a proximity to a highway may have a different market price than the land which is situated in a different location/interior of the village and which might not have a good potential for development. Therefore, also, the High Court committed a grave error in solely relying upon Ex.P.17 to determine the market value of the lands in the instant case. [Para 6][811-D-F]

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 2052-2053 of 2022.

From the Judgment and Order dated 16.07.2021 of the High Court of Karnataka at Bengaluru in Misc. First Appeal No.7954 of 2014 (LAC) c/w Misc. First Appeal No.6429 of 2015 (LAC).

Nikhil Goel, AAG, Shubhranshu Padhi, Ashish Yadav, Rakshit Jain, Vishal Banshal, Advs. for the Appellants.

Shanthkumar V. Mahale, P. Mahesh, Rajesh Mahale, Advs. for the Respondent.

The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Karnataka at Bengaluru in Miscellaneous First Appeal No.7954 of 2014 (LAC) and Miscellaneous First Appeal No. 6429 of 2015 (LAC) by which the High Court has allowed the Miscellaneous First Appeal No. 7954 of 2014 (LAC) preferred by the respondent herein – original claimant – original landowner and has enhanced the amount of compensation in respect of the acquired land to Rs. 40 lakhs per acre and consequently has dismissed the Miscellaneous First Appeal No. 6429 of 2015 (LAC) preferred by the State, the State has preferred the present appeals.

2. The facts leading to the present appeals in a nutshell are as under:-

2.1 That the land of the respondent herein – original landowner – claimant situated at Bechark Revenue Village, Belagola Hobli, Srirangapattana was acquired by the appellants for a public purpose –

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- A for improvement of Ranganathittu Bird Sanctuary. A notification under Section 4 of the Land Acquisition Act was issued/published on 24.11.2008, which was followed by notification under Section 6 in the year 2009. The Land Acquisition Officer passed an award on 10.07.2010 fixing the market value of the acquired land @ Rs.21,488/- per guntha. The Reference Court enhanced the amount of compensation to Rs.30,49,200/- per acre, i.e., Rs.76,230/- per guntha.

- 2.2 Feeling aggrieved and dissatisfied with the judgment and award passed by the Reference Court in determining the market price at Rs.30,49,200/- per acre (Rs.76,230/- per guntha), the original claimant preferred first appeal before the High Court and requested to enhance the amount of compensation. Before the High Court, the original claimant heavily relied upon a document produced as Ex.P.17 – by which for the lands acquired in the year 2011 the amount of compensation was awarded @ Rs.60 lakhs per acre. Mainly relying on Ex.P.17 and thereafter on “guesswork”, by the impugned judgment and order the High Court has enhanced the amount of compensation to Rs.40 lakhs per acre with all consequential statutory benefits.

- 2.3 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court in enhancing the amount of compensation to Rs.40 lakhs per acre solely relying upon Ex.P.17 and on “guesswork”, the State has preferred the present appeals.

3. We have heard learned counsel appearing on behalf of the respective parties at length.

4. At the outset, it is required to be noted and it is not in dispute that while enhancing the amount of compensation to Rs.40 lakhs per acre, the High Court has heavily relied upon Ex.P.17 – by which in respect of the lands acquired in the year 2011 the compensation was awarded @ Rs.60 lakhs per acre. However, it is required to be noted that the award – Ex.P.17 was a consent award and was in respect of the property acquired in the year 2011 and which was acquired for a different purpose, namely, for formation of double line railway broad gauge between Bengaluru and Mysore City. But in the present case, Section 4 notification has been issued in the year 2008, i.e., three years before the land acquired in the case of Ex.P.17. Therefore, the award – Ex.P.17, which has been relied upon by the High Court is for the acquisition subsequent to the land acquired in the present case, i.e., after a period of three years and therefore the High Court ought not to have relied upon

the same while determining the market price of the land acquired in 2008 considering the market price determined for the lands acquired in the year 2011 and on the basis of some “guesswork”. A

5. Even otherwise, it is required to be noted that Ex.P.17 is a consent award. Therefore, the consent award ought not to have been relied upon and/or considered for the purpose of determining the compensation in case of another acquisition. In case of a consent award, one is required to consider the circumstances under which the consent award was passed and the parties agreed to accept the compensation at a particular rate. In a given case, due to urgent requirement, the acquiring body and/or the beneficiary of the acquisition may agree to give a particular compensation. Therefore, a consent award cannot be the basis to award and/or determine the compensation in other acquisition, more particularly, when there are other evidences on record. Therefore, the High Court has erred in determining the compensation @ Rs.40 lakhs per acre relying upon the award – Ex.P.17 in respect of the land which was for the lands acquired in the year 2011. B C D

6. Even otherwise, it is required to be noted that in the present case, the High Court has determined the compensation relying upon Ex.P.17 mechanically. The High Court has not at all considered whether the lands acquired in the present case is similarly situated to the lands acquired in the case of Ex.P.17. As per the settled position of law, there may be different market prices/compensation with respect to different lands, may be in the same village and/or nearby location. The land, which is on a prime location and which is on the highway and/or at a proximity to a highway may have a different market price than the land which is situated in a different location/interior of the village and which might not have a good potential for development. Therefore, also, the High Court has committed a grave error in solely relying upon Ex.P.17 to determine the market value of the lands in the instant case. E F

7. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court determining the compensation @Rs.40 lakhs per acre relying upon Ex.P.17 is unsustainable. However, at the same time, considering the fact that there were other documentary evidences on record, which ought to have been considered by the High Court, we deem it appropriate to remand the matter to the High Court to decide the first appeals afresh in accordance with law and on merits and to determine the market price/compensation considering the other evidences on record, if any. G H

- A 7.1 In view of the above and for the reasons stated above, the present appeals succeed. The impugned judgment and order passed by the High Court in Miscellaneous First Appeal No. 7954 of 2014 (LAC) and Miscellaneous First Appeal No. 6429 of 2015 (LAC) determining the compensation @ Rs.40 lakhs per acre relying upon Ex.P.17 are hereby quashed and set aside. The matters are remanded to the High Court to decide the first appeals afresh in accordance with law and on their own merits and thereafter to determine the market price/compensation considering the other material/evidences on record (other than Ex.P.17, which as observed hereinabove, cannot be said to be comparable). The aforesaid exercise be completed by the High Court within a period of
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- C three months from the date of the receipt of the present order.

Both the appeals are allowed accordingly to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.

Pending applications, if any, also stand disposed of.

Devika Gujral

Appeals allowed.