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RAJALAKSHMI

v.

THE SPECIAL TAHSILDAR (LA) KOYILANDY & ANOTHER  
(Civil Appeal No. 2363 of 2023)

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APRIL 10, 2023

**[M. R. SHAH AND C. T. RAVIKUMAR, JJ.]**

- Land Acquisition Act, 1894 – Just and fair compensation – Lands in question were acquired for setting up of an IT Park –*
- C *Many landowners accepted the compensation at negotiated price of Rs. 1,00,000/- per cent – Present landowners dissatisfied, references made u/s.18 – Reference Court enhanced the compensation – High Court awarded the compensation at the rate of Rs. 1,35,000/- per cent by giving 35% rise to the negotiated price of Rs. 1,00,000/- per cent – Correctness of – Held: High Court*
- D *rightly took into consideration the negotiated price for which the other various landowners sold their land for the very project for a sale consideration of Rs. 1,00,000/- per cent – However, taking into consideration the location of the lands in question, granting 35% rise to the negotiated price of Rs. 1,00,000/- per cent is on a lower side – Landowners are entitled to just and fair compensation – 60% rise granted to the negotiated price – Thus, compensation awarded at the rate of Rs. 1,60,000/- per cent instead of Rs. 1,35,000/- per cent – Impugned judgments/orders modified to the aforesaid extent.*
- F *Land Acquisition Act, 1894 – Determination of compensation – Negotiated price – Held: Landowners aggrieved by the amount of compensation determined by the Land Acquisition Officer are not bound by the negotiated price agreed by the other landowners, however, in the present case, the same can be said to be a relevant consideration for determining the compensation.*
- G *CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2363 of 2023.*

From the Judgment and Order dated 30.05.2018 of the High Court of Kerala at Ernakulam in LAA No. 359 of 2017.

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With

Civil Appeal Nos. 2347-2362, 2368 and 2366-2367 of 2023. A

Jayanth Muth Raj, Sudhi Vasudevan, Sr. Advs., Naresh Kumar, K. P. Rajagopal, Jaimon Andrews, Piyo Harold Jaimon, Firdouse C. P, Harikrishna R, Ms. Shilpa Satheesh, Jose Johnes Joseph, Aditya Kiran R. S, Ms. Aswathi M.K., Advs. for the Appellant.

V. Chitambaresh, Sr. Adv., Lakshmeesh S. Kamath, Ms. Samriti Ahuja, C. Govind Venugopal, Ms. Sonal Gupta, C. K. Sasi, Abdulla Naseeh V T, Ms. Meena K Poulose, Advs. for the Respondents. B

The Judgment of the Court was delivered by

**M. R. SHAH, J.** C

1. As common question of law and facts arise in these appeals, all these appeals are decided and disposed of together by this common judgment and order.

2. Feeling aggrieved and dissatisfied with the impugned judgments and orders dated 30.05.2018/28.05.2018/10.08.2022 passed by the High Court of Kerala at Ernakulam in Land Acquisition Appeal No. 359/2017 and other allied appeals and cross objections, by which the High Court has determined and awarded the compensation for the lands acquired at the rate of Rs.1,35,000/- per cent, the original landowners/claimants have preferred the present appeals. D E

3. In all these appeals, the lands in question came to be acquired for the purpose of setting up of an IT Park at Kozhikode. Notification/s under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act’) came to be issued on 21.08.2009. The Land Acquisition Officer declared the award and awarded compensation at the rate of Rs. 16,294/- per cent for wet land; Rs.27,807/- per cent for garden land without road access; and Rs.45,897/- per cent for garden land having road access. However, the Reference Court enhanced the amount of compensation to Rs. 2,00,000/- per cent for the garden land adjacent to the road and Rs.1,75,000/- per cent for the garden land not having the access to the road. However, the High Court by the impugned common judgment and order has determined and awarded compensation to Rs. 1,35,000/- per cent, giving 35% rise to the negotiated price at which the other lands came to be acquired. F G

3.1 Insofar as Civil Appeal arising from Special Leave Petition No. 15698/2021 is concerned, as noted hereinabove, with respect to the H

- A very notification dated 21.08.2009, the Land Acquisition Officer awarded compensation at the rate of Rs.45,897/- per cent. The Reference Court enhanced the amount of compensation to Rs. 3,00,000/- per cent. However, in an appeal preferred by the acquisition body/beneficiary, by the impugned judgment and order, the High Court has awarded and determined the compensation at the rate of Rs. 1,35,000/- per cent, relying upon the common judgment and order dated 28.05.2018, which is the subject matter of the present appeals as above.
- B 4. Learned Senior Advocates appearing on behalf of the respective landowners/original claimants have vehemently submitted that in the facts and circumstances of the case, the High Court has materially erred in awarding compensation at the rate of Rs. 1,35,000/- per cent.
- C 4.1 It is vehemently submitted by the learned senior counsel that the lands in question were the garden lands and were having the access to the road and were situated in a prime location and which were nearer to the IT Park and therefore the High Court has material erred in awarding compensation at the rate of Rs. 1,35,000/- per cent only.
- D 4.2 It is next submitted that the claimants relied upon the sale exemplar in which the land nearer to the lands acquired came to be sold at Rs. 4,00,000/- per cent. It is submitted that the High Court has materially erred in discarding the same by observing that the price mentioned in the sale exemplar is artificial and on the higher side.
- E 4.3 Learned senior counsel appearing on behalf of the respective landowners/original claimants have further submitted that in any case the High Court has materially erred in giving only 35% rise to the negotiated price. It is submitted that merely because the other landowners accepted the compensation at Rs. 1,00,000/- per cent as they might be satisfied with that compensation, cannot be a ground to take into consideration the negotiated price of Rs. 1,00,000/- per cent.
- F 4.4 Learned senior counsel appearing on behalf of the appellants have taken us to the observations made by the Reference Court on the location of the lands acquired.
- G 4.5 Making above submissions, it is prayed to enhance the amount of compensation.
- H 5. While opposing the present appeals, Shri V. Chitambaresh, learned Senior Advocate and Mr. C.K. Sasi, learned counsel appearing

on behalf of the beneficiary/acquiring body have vehemently submitted that most of the landowners as such have accepted the negotiated compensation of Rs. 1,00,000/- per cent. It is submitted that therefore the High Court has not committed any error in determining the compensation taking into consideration the negotiated price accepted by most of the landowners.

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5.1 It is submitted that so far as the sale exemplar relied upon on behalf of the appellants is concerned, it is submitted that as the same property was sold for commercial purpose, by giving cogent reasons the High Court has rightly discarded the same. It is submitted that so far as the other sale exemplars are concerned, they were post-acquisition and therefore the same are rightly discarded by the High Court.

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5.2 Making above submissions, it is prayed to dismiss the present appeals.

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

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At the outset, it is required to be noted that by the impugned common judgment and order the High Court has determined the compensation at the rate of Rs. 1,35,000/- per cent considering the negotiated price at Rs. 1,00,000/- per cent and giving further 35% rise. It is required to be noted that out of the total acquisition, with respect to 145 landowners for 28.89 acres, the requiring authority purchased the land on the basis of negotiations at the sale consideration of Rs. 1,00,000/- per cent. Therefore, many landowners accepted the compensation at negotiated price of Rs. 1,00,000/- per cent. However, the present landowners were not satisfied and therefore at their instance the references were made under section 18 of the Act. Therefore, as such, the High Court rightly took into consideration the negotiated price for which the other various landowners sold their land for the very project for a sale consideration of Rs. 1,00,000/- per cent. It is true that the landowners who are aggrieved by the amount of compensation determined by the Land Acquisition Officer are not bound by the negotiated price agreed by the other landowners, however, the same can be said to be a relevant consideration for determining the compensation in the present case.

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7. Now so far as the reliance placed upon the sale exemplar relied upon on behalf of the landowners is concerned, by giving cogent reasons,

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- A the High Court has discarded the same by observing that the price mentioned in the said sale exemplar is artificial and exorbitant. It is required to be noted that the land with respect to sale exemplar was sold for a commercial purpose, namely, Mall. Therefore, in the facts and circumstances of the case, the High Court has rightly discarded the same.
- B So far as the other sale exemplars are concerned, the same are post-acquisition and therefore also the High Court has rightly discarded the same.

8. From the impugned judgment(s) and order(s) passed by the High Court, it appears that the High Court has determined and awarded compensation at Rs. 1,35,000/- per cent by giving 35% rise to the negotiated price of Rs. 1,00,000/- per cent. However, taking into consideration the location of the lands; the lands being garden lands having road access and Thondayad junction is about 2 kilometres away from the acquired land, we are of the opinion that granting 35% rise to the negotiated price of Rs. 1,00,000/- per cent can be said to be on a lower side. In our view, the claimants/landowners are entitled to just compensation. Therefore, in the facts and circumstances of the case and looking to the location of the acquired lands, we are of the opinion that if 60% rise to the negotiated price is given, the same can be said to be just compensation and which can be said to be a fair compensation.
- E 9. In view of the above and for the reasons stated above, all these appeals succeed in part. The impugned judgment/s and order/s passed by the High Court are hereby modified to the extent awarding compensation for the lands acquired at the rate of Rs. 1,60,000/- per cent, instead of Rs. 1,35,000/- per cent as awarded by the High Court. It goes without saying that the claimants shall be entitled to all the statutory benefits including interest which may be available under the Act, 1894 on the enhanced amount of compensation. The acquiring body is hereby directed to deposit the enhanced amount of compensation as above with the Reference Court within a period of six weeks from today and on such deposit the original claimants shall be permitted to withdraw the same.

10. The present appeals stand disposed of in the above terms. No costs.

Divya Pandey

(Assisted by : Abhishek Agnihotri and Roopanshi Virang, LCRAs)

Appeals disposed of.