

## **Vijay Kumar Moti Lal vs State Of Maharashtra on 12 March, 1981**

**Equivalent citations: AIR1981SC1632, (1981)2SCC719, AIR 1981 SUPREME COURT 1632, 1981 (2) SCC 719**

**Author: S. Murtaza Fazal Ali**

**Bench: A. Varadarajan, A.N. Sen, S. Murtaza Fazal Ali**

### **JUDGMENT**

S. Murtaza Fazal Ali, J.

1. This appeal by certificate is directed against a judgment of the Bombay High Court dated Dec. 3, 1968 arising out of Land Acquisition Proceedings taken under the erstwhile Hyderabad Land Acquisition Act. The admitted position, as found by the High Court, seems to be that the land in dispute is situated in the city of Jalna which is a developing town and in the neighbourhood of the plot in dispute a grain market has already been built. Several other municipal plots have also been sold out. Constructions like shops have come up. The land was acquired sometime in the year 1954 and from the finding of the High Court it appears that the plots almost contiguous to the land in question have great building potentiality. A respectable witness like Mohanlal Deep Chand, who was the President of the Municipality, had deposed that the average sale value of such land would be Rs. 15 per sq. yard. In this connection the High Court observed as follows:

Plot No. 26 which is behind plot No. 27 on the 70 feet road fetched the price at Rs. 15 per sq. yard. These sales have been deposed to by claimant's witness No. 1 Mohanlal Deep Chand who was then the President of the Municipality. These sales have not in fact been challenged on behalf of the State. It is clear from these sales that the situation of these plots has played a very important role in the price obtained by them.

2. The High Court pointed out that the evidence of Mohanlal Deep Chand has not been challenged on behalf of the State. In these circumstances, therefore, this was a very reasonable and adequate basis for determining the compensation of the land in dispute. Again at another place the High Court has held that even if Rs. 15 per sq. yard was taken for a smaller plot in the locality, as the locality was not properly developed, sufficient allowance should be given for reducing the amount of compensation. The High Court accordingly upheld the compensation awarded by the Civil Court @ Rs. 2 per sq. yard. Having regard to the circumstances of this case we find that there is absolutely no warrant for the High Court for upholding the rate of Rs. 2 per sq. yard which was grossly inadequate having regard to the locality; the "character of the land; the building potentiality; the coming up of the various constructions and such other factors, and more particularly when the High Court itself

found that the evidence of the President of the Municipality remained unchallenged and was not contested by the State. Thus taking the case at the lowest even if Rs. 15 per sq. yard is held to be the correct sale value of the land and deducting 1/3rd as the area was not fully developed, the minimum compensation that could be awarded to the appellant would be at the rate of Rs. 10 per sq. yard. This Court in the case of Tribeni Devi v. Collector of Ranchi has observed that where an area is not fully developed, a deduction of 1/3rd can be made. In this connection this Court observed as follows:

In order to develop that area at least the value of 1/3rd of the land will have to be deducted for roads, drainage and other amenities.

3. For these reasons, therefore, we are satisfied that the judgment of the High Court was clearly wrong and did not follow the correct principles in determining the proper compensation to which the appellant was entitled for the land in dispute. We, therefore, allow this appeal and enhance the compensation from Rs. 2 per sq. yard to Rs. 10 per sq. yard. The appellant will be entitled to the proportionate increase in the interest and solatium as a result of the enhanced compensation awarded by us. In the circumstances of this case, there will be no order as to costs.