

Himmat Singh & Ors vs State Of M.P. & Anr on 29 November, 2013

Equivalent citations: AIRONLINE 2013 SC 241, (2013) 14 SCALE 267, (2014) 102 ALL LR 214, (2014) 122 REVDEC 271, (2014) 133 ALLINDCAS 30, 2014 (14) SCC 466, (2014) 1 ALL WC 897, (2014) 1 RECCIVR 629, AIRONLINE 2013 SC 157, (2013) 14 SCALE 251, 2013 (16) SCC 392, (2014) 1 CIVILCOURTC 301, (2014) 1 CLR 43 (SC), (2014) 1 LANDLR 604, (2014) 1 RECCIVR 592, (2014) 4 ALL WC 3695

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Bench: C. Nagappan, Shiva Kirti Singh, G.S. Singhvi

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1248 OF 2007

Himmat Singh and others
....Appellants

versus

State of M.P. and another
....Respondents

J U D G M E N T

G.S. SINGHVI, J.

1. Feeling dissatisfied with the meagre enhancement granted by the learned Single Judge of the Madhya Pradesh High Court in the amount of compensation determined by II Additional District Judge, Shivpuri (hereinafter described as, ‘the Reference Court’), the appellants have filed this appeal.

2. By letter dated 27.12.1988, Collector, Shivpuri proposed the acquisition of 4.421 hectares land for construction of link road near Guna- Shivpuri Rail Line. However, even before issue of the notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, ‘the Act’), possession of the land was taken by the officers of the Central Railway and link road was constructed.

3. On 16.1.1989, the notification issued under Section 4(1) of the Act was published. However, the same was cancelled on account of discrepancies in the area of the land proposed to be acquired. After about four months, the Collector proposed the acquisition of 4.788 hectares land of which possession had already been taken.

4. Thereupon, the Government of Madhya Pradesh issued notification dated 23.5.1991 under Section 4(1), which was published on 27.12.1991 for the acquisition of land measuring 4.788 hectares. The Land Acquisition Officer passed award dated 30.1.1993 whereby he held that the landowners are entitled to compensation of Rs.2,61,351.

5. On an application filed by the appellants under Section 18 of the Act, the Collector made reference to the concerned Court for determination of the compensation payable to the appellants.

6. On the pleadings of the parties, the Reference Court framed the following issues:

“1. Whether compensation determined by the Land Acquisition Officer, Shivpuri, is insufficient and improper and contrary to the provisions of Section 23 of the Land Acquisition Act?

2. Whether the petitioners are entitled to higher compensation? If yes, to what extent?

3. Whether the application for reference made by the petitioners is within limitation?

4. Relief and costs.”

7. In support of their claim, the appellants produced oral and documentary evidence including sale deeds marked Exhibits P3 to P26, the details of which (as given in the written note filed on behalf of the appellants on 27.11.2013) are as under:

Exhibit	Date	AREA (Sq Ft)	Total	RATE	
No.		& Khasra No.		(Rs)	
P3	20.03.1989	660 [Kh No. 161/3]	5900/-	8.94	
P4	05.04.1989	660 [Kh No. 161/3]	6600/-	10.00	
P5	13.09.1989	1386 [Kh No. 161/3]	13900/-	10.03	
P6	20.09.1989	330 [Kh No. 161/3]	3300/-	10	
P7	26.09.1989	792 [Kh No. 161/1]	8000/-	10.23	
P8	19.12.1989	840		10.12	
P9	19.12.1989	840		10.12	
P10	19.03.1991	700 [Kh No. 161/1]		13.71	
P11	04.09.1990	1500	60,000/-	40.00	
P12	22.10.1990	300	7500/-	25.00	
P13	22.10.1990	800	20,000	25.00	
P14	13.02.1991	1000	15,000/-	15.00	
P15	19.04.1991	1000	15,000/-	15.00	
P16	25.04.1991	1200	18,000/-	15	
P17	30.09.1991	2400 [Kh No. 161/1]	36000/-*	15*	

P18	13.11.1991	675		30.37	
P19	16.01.1992	700 [Kh No. 161/2]	14,000/-	20.00	
P20					
P21	04.08.1992	974	40,000/-	41.07	
P22	31.07.1992	420	8400/-	20.00	
P23	13.10.1992	1188	47,000/-	40.52	
P24	21.10.1992	1272	—	63.68	
P25	16.11.1992	4000 [Kh No. 161/1]	72000/-	18	
P26	31.07.1992	420		20	

8. The Reference Court discarded most of the sale deeds on the ground that contents thereof have not been proved by examining the buyer and the seller and held that market value of the acquired land is Rs.7 per sq. ft. The Reference Court then made 50% deduction for development of the acquired land, i.e., for construction of roads, drains, sewerage lines, parks, electricity lines, etc., and arranging other amenities and arrived at the figure of Rs.3.50 per sq. ft. The Reference Court made further deduction to the tune of 50% on the ground that the land which was subject matter of sale deeds was very small and held that maximum cost of land cannot be more than Rs.1.75 per sq. ft. and awarded total compensation of Rs.8,87,485.55 to the appellants. The Reference Court also determined separate shares of the appellants. While dealing with the appellants' claim for award of compensation in lieu of the damage caused due to removal of fencing of Sant Farm, segregation of land due to laying of rail line and construction of road, loss of earning due to damage of crops/farming and destruction of well, the Reference Court did refer to the statement of PW-1 Himmat Singh, certified copy of report Exhibit P32 prepared by Sub-Divisional Officer of the Water Resources Department as also the statement of Gaya Prasad Niranjana (DW1) but, without analyzing the same and without assigning cogent reasons, recorded the following conclusion:

“In the aforesaid circumstances no amount on above counts can be determined on the basis of surmises and conjectures alone. Moreover, it must also be kept in mind that this irrigation arrangement would have otherwise also become abrupt if the lands would have been used for building construction purposes and the buyer would have to make his own arrangements for stopping them. In the circumstances there is no justification for determining any separate compensation on this count.”

9. The appellants challenged the judgment of the Reference Court by filing appeal under Section 54 of the Act. The learned Single Judge disposed of the appeal along with other appeals filed in relation to the land acquired for construction of Broad Gauge Rail Line and held:

“As regards acquisition of land in the year 1991 is concerned, which is covered by second notification, the rate of land can be held to be Rs.8/- per sq. ft and after deduction I hold that they are entitled to Rs. 1.33/- per sq. ft. i.e. after reduction of 50% towards development of roads, drainage etc. and 33.33% towards the expenses for development. Considering this fact, I allow these appeals in part and hold that land which was required in the year 1987, the appellants are entitled to get compensation at the rate of Rs. 1/- per sq. ft and for the land, which was required in

the year 1991, they are entitled to Rs.1.33/- per sq. ft.”

10. The learned Single Judge of the High Court did not deal with the appellants’ claim for award of compensation in lieu of the loss caused due to removal of fencing of Sant Farm, segregation of land due to construction of road through the farm land and laying of rail line and loss of earning due to damage to crops and farming potential as also destruction of the well existing on the acquired land.

11. We have heard learned counsel for the parties and carefully perused the record.

12. By a separate judgment passed today in C.A. No.1247 of 2007, this Court has held that for the land acquired vide notification dated 28.5.1987 for construction of Broad Gauge Rail Line, the appellants are entitled to compensation at the rate of Rs.5 per sq.ft. with all statutory benefits and interest on solatium.

13. Since the land which is subject matter of this appeal was acquired vide notification dated 27.12.1991 for construction of road from Kolaras Town to the Railway Station, we have no hesitation to hold that the appellants are entitled to the benefit of escalation in land prices. In *Ranjit Singh v. UT of Chandigarh* (1992) 4 SCC 659, *Land Acquisition Officer v. Ramanjulu* (2005) 9 SCC 594, *Krishi Utpadan Mandi Samiti v. Bipin Kumar* (2004) 2 SCC 283, *Sardar Jogendra Singh v. State of U.P.* (2008) 17 SCC 133, *Revenue Divisional Officer-cum-LAO v. Sk. Azam Saheb* (2009) 4 SCC 395 and *ONGC Ltd. v. Rameshbhai Jivanbhai Pate* (2008) 14 SCC 745, this Court has repeatedly held that the exercise undertaken for fixing market value and determination of the compensation payable to the landowner should necessarily involve consideration of escalation in land prices. In the last mentioned judgment, the Court noticed the earlier precedents and observed as under:

“12. We have examined the facts of the three decisions relied on by the respondents. They all related to acquisition of lands in urban or semi-urban areas. *Ranjit Singh* related to acquisition for development of Sector 41 of Chandigarh. *Ramanjulu* related to acquisition of the third phase of an existing and established industrial estate in an urban area. *Bipin Kumar* related to an acquisition of lands adjoining Badaun-Delhi Highway in a semi-urban area where building construction activity was going on all around the acquired lands.

13. Primarily, the increase in land prices depends on four factors:

situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas, unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties.

14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore, if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is, about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

15. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on sale transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the 'rate' of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase."

14. In view of the propositions laid down in the aforementioned judgments, we hold that the appellants will be entitled to 10% annual escalation in the compensation determined for the acquisition made vide notification dated 28.5.1987, which was published on 12.6.1987.

15. The appellants' prayer for award of compensation on account of loss caused due to removal of fencing of Sant Farm, severance of land due to laying of rail line and construction of road, loss caused due to destruction of crop/farming activity etc. was rejected by the Reference Court without assigning cogent reasons and the learned Single Judge of the High Court did not even deal with the issue. It is, therefore, apposite that the matter is remitted to the Reference Court for deciding this issue afresh keeping in view the evidence produced by the parties in the references made by the Collector for determination of compensation of the land acquired vide notifications dated 28.5.1987 and 27.12.1991.

16. In the result, the appeal is partly allowed and it is declared that the appellants shall be entitled to compensation at the rate of Rs.5 per sq. ft. with benefit of escalation at the rate of 10% per annum for the period between 28.5.1987 and 27.12.1991. The appellants shall also be entitled to get interest on solatium. The respondents are directed to pay the enhanced compensation with interest etc. to the appellants within a period of six months from today.

17. The issue relating to award of compensation in lieu of the loss caused due to removal of fencing of Sant Farm, segregation of land on account of laying of rail line and construction of road from Kolaras Town to Railway Station and loss caused due to damage to the crop and farming activity is remitted to the Reference Court for fresh adjudication in the light of the evidence produced by the parties in the references made by the Collector under Section 18 of the Act.

.....J. (G.S. SINGHVI)J. (SHIVA KIRTI
SINGH)J. (C. NAGAPPAN) New Delhi;

November 29, 2013.
