

## **Indubhai Ambalal Patel And Ors. vs State Of Andhra Pradesh on 12 January, 1982**

**Equivalent citations: AIR1982SC939, (1982)2SCC386, AIR 1982 SUPREME COURT 939, (1982) IJR 26 (SC) 1982 (2) SCC 386, 1982 (2) SCC 386**

**Bench: A.N.Sen, V.D. Tulzapurkar**

### **JUDGMENT**

1. In these appeals two parcels of land forming part of one plot were acquired by a notification issued in April, 1959 and the question raised pertains to the market value of these parcels of land on the relevant date. In C.A. No, 1305 the claimant, Raja Dhanraj Giriji, had claimed compensation for his parcel of land admeasuring 4628.26 sq. yds. at the rate of Rs. 100/- per sq. yd. before the Land Acquisition Officer but he awarded compensation at the rate of Rs. 35/- per sq. yd. He got a reference made to the City Civil Court which granted him compensation at the rate of Rs. 80/- per sq. yd. exclusive of solatium at 15% and this rate was fixed after taking into consideration the injurious affection suffered by the claimant on account of severance of a small portion measuring 415 sq. yds.-an inaccessible portion which was left with him and which was of no use to him. The matter was carried in appeal to the High Court both by the claimant as well as by the State Government and the High Court dismissed appeals of both confirming the compensation awarded by the City Civil Court. In the other case the claimants, Indubhai Ambalal Patel and Ors. had claimed compensation in respect of their parcel of land admeasuring 4513 sq. yds. (sold to them by Dhanraj Giriji at Rs. 40/- per sq. yd.) at the rate of Rs. 125/-per sq. yd. but the Land Acquisition Officer granted compensation at the rate of Rs. 35/-per sq. yd. and in the reference made to the City Civil Court, that Court granted compensation at the rate of Rs. 65/- per sq. yd. The claimants preferred an appeal to the High Court and obviously in view of compensation awarded to Raja Dhanraj Giriji at the rate of Rs. 80/- per sq. yd. these claimants could not be discriminated and were granted compensation at the same rate, but inclusive of solatium, especially when the two parcels of land formed the part of the same plot originally owned by Raja Dhanraj Giriji. To both the claimants the High Court awarded interest at the rate of 4% per annum. Both the claimants have come up in appeal to this Court.

2. After hearing counsel on either side and having considered the sale deeds and the other documents which were considered by the Courts below we are clearly of the view that no question of breach of any principle is involved in these appeals and the question of quantum of compensation solely rests on the appreciation of the material placed before the lower Courts and in our view the High Courts appreciation of the entire material seem to be proper and it was right in conforming the trial Courts rate of Rs. 80/- per sq. yd. as representing the fair market value on the relevant date. In regard to two aspects only that were pressed before us some interference seems to be called for.

3. In C.A. 1306 of 1970 the claimants were not granted any interest at all on the compensation amount awarded by the Land Acquisition Officer and when the enhanced compensation was

awarded interest has been awarded at the rate of 4% only on the enhanced amount. It has been urged before us that the claimants would be entitled not only to interest on the entire amount of compensation but also at a higher rate, namely 6% per annum which has been prescribed under Section 23 of the Hyderabad Land Acquisition Act. There is force in this contention. Interest at the rate of 4% per annum seems to have been granted under some apprehension. It has been further urged by counsel for these claimants that solatium at the rate of 15% was also wrongly denied to them. We inquired from counsel for the State as to the basis on which such a solatium was denied and the only basis on which he was able to justify the denial of solatium was that a higher rate, namely Rs. 80/- per sq. yd. was fixed in the case of these claimants and therefore compensation at that rate was decreed as inclusive of solatium. He suggested that the rate of compensation which was in the mind of the Court was Rs. 70/- per sq. yd. but assuming that the Court wanted to give compensation at Rs. 70/- per sq. yd. on mathematical calculation the counsel for the State fairly conceded that if solatium had to be denied on this basis the compensation awarded would have been fixed at Rs. 73/- per sq. yd. and not Rs. 70/- per sq. yd. In view of this position we are of the view that additional compensation at the rate of Rs. 3/- per sq. yd. should be paid to the claimants and further, interest at the rate of 6% should be paid to them on the entire amount of compensation from the date of taking possession of the land till the payment. However, while calculating interest at 6% adjustment will have to be made in respect of the interest if any paid to the claimants on such portion of the compensation which has been already awarded to them. With this modification the decree of the High Court under appeal is confirmed.

4. In C.A. 1305 of 1970 the claimant has also sought interest at the rate of 6% per annum which is justified. It appears that initially no interest was awarded but on review petition being made by the claimant before the High Court interest at the rate of 4% was awarded on the entire amount of compensation awarded to the claimant. In case of this claimant therefore additional interest at 2% over and above that awarded by the High Court from the date of taking possession of the land till the date of payment is hereby decreed. Subject to this modification the order of the High Court under appeal is confirmed. Each party to bear its own costs.