Supreme Court of India
G. Ramesan vs State Of Kerala And Anr on 31 March, 1997
Bench: K. Ramaswamy, D.P. Wadhwa

CASE NO.:
Appeal (civil) 2669 of 1997

PETITIONER:
G. RAMESAN

RESPONDENT:
STATE OF KERALA AND ANR

DATE OF JUDGMENT: 31/03/1997

BENCH:
K. RAMASWAMY & D.P. WADHWA

JUDGMENT:

JUDGMENT 1997 (3)SCR 453 ORDER The following Order of the Court was delivered :

Leave eranted. We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the Division Bench of the Kerala High Court, made on January 22, 1996 in L.A.A. No. 414/86. Notification under Section 3 (1) of the Kerala Land Acquisition Act,1960 was published on March 26, 1976, acquiring 17 acres of land in Tampanoor which is part of the Trivandrum city, for construction of the Kerala Road Transport Corporation Depot. One acre is equivalent to 2.47 Prossession was taken on August 6, 1976. The award was made ondate and the sum of Rs. 8,250 per cent was determined by the requisition Officer. On reference, under Section 18, the Civil Court and decree dated July 21, 1986 enhanced the compensation to 30 per cent. On appeal, the learned Judges made two categories on lanu. The first category consisted of 9.54 acres abutting the road, and another 7.60 acres interior to the lands covered by the first category, which is lowlying area below one metre to the first category land. Consequently, they determined the compensation at the rate of Rs. 61,750 per acre for the lands a abutting the main road and Rs. 43,035 per acre for the low-lying lands. To that extent, the learned Judges reversed the decree and award of the reference Court. As against the reversal in respect of the low-lying land this appeal has come to be filed.

Shri T.L.V. lyer, learned senior counsel for the appellant, contends that the distinction made by the Division Bench between two belts of land is not correct in law. The belting procedure adopted by this Court relates only to large extents of lands. But the land in question being of a small extent and situated in the heart of the town, the belting principle is not valid in law. We find no force in the contention. It is settled legal position that depending upon the nature of the land and the location thereof, the belting procedure could be adopted on the principle that no willing buyer in an open market would prepare to purchase that lands abutting the road and the lands beneath the road being a low lying area at the same rate. Under these circumstances, the Court sitting in the arm chair of a willing purchaser would always orders itself the above question and determine the proper and

correct market value. The learned Judges, therefore, rightly have adopted the belting system in determining the compensation for the reason that no willing prudent buyer in the open market would offer the same rate for two types of lands.

Shri Iyer contends that at best expenses to be incurred for filling up of one meter depth of the area is required to be deducted for determina-tion of the compensation on par with the lands abutting the main road. Prima facie the argument is attractive. When we asked the learned counsel whether any evidence has been adduced in support thereof, very fairly, he has stated that no evidence has been adduced and, therefore, he requested to remit the matter to the reference Court for reconsideration. We find that it is not possible to accept the contention. The learned Judges being aware of the local situation obviously were not inclined to grant the same compensation to the land lying in depth of one meter below the leveled up land, as granted for with the land already developed. Under these cir- cumstances, what requires to be considered is whether the High Court has committed any error of principle of law warranting interference. The question is one of appreciation of evidence taking the factual situation into consideration. The learned Judges, therefore, have not committed any error of principle of law warranting interference.

The appeal is accordingly dismissed. No costs.