

Supreme Court of India

State Of Maharashtra vs Gurappa Hirojirao on 25 January, 1994

Equivalent citations: 1994 SCR (1) 336, 1994 SCC (2) 331

Author: V N.

Bench: Venkatachala N. (J)

PETITIONER:

STATE OF MAHARASHTRA

Vs.

RESPONDENT:

GURAPPA HIROJIRAO

DATE OF JUDGMENT 25/01/1994

BENCH:

VENKATACHALA N. (J)

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VENKATACHALA N. (J)

RAMASWAMY, K.

CITATION:

1994 SCR (1) 336

1994 SCC (2) 331

JT 1994 (1) 346

1994 SCALE (1) 213

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by N. VENKATACHALA, J.-Civil Appeal Nos. 596-601 of 1973 and Civil Appeal Nos. 365-370 of 1972 are appeals and cross- appeals by certificates of fitness granted by the High Court of Judicature at Bombay under Article 133(1)(a) of the Constitution of India in respect of a common judgment and separate decrees rendered by it in certain land acquisition appeals and cross-objections filed therein.

2. 42 acres, 23 guntas and 6 1/2 sq. yards of land in Final Plot No. 7-A, 28 acres of land out of the land in Final Plot No. 8, 35 acres of land out of the land in Final Plot No. 97, 3 guntas of land in Final Plot No. 6/33 and 4 guntas of land in Final Plot No. 6/34 being agricultural lands lying within the limits of Sholapur Municipal Corporation were required for establishment of an Agricultural Produce Market at Sholapur. Government of State of Maharashtra got published a Notification in the Gazette dated October 10, 1965 under Section 4(1) of the Land Acquisition Act, 1894, hereinafter referred to as 'the Act', proposing acquisition of the said lands in that behalf. After the holding of

necessary inquiries, it published the declaration under Section 6 of the Act in respect of those lands. Thereafter, the Special Land Acquisition Officer (Special LAO) made an award under Section 11 of the Act determining the market value of the land in Final Plot No. 7-A at Rs 6000 an acre, Final Plot No. 8 at Rs 5500 an acre, Final Plot No. 97 at Rs 5000 per acre, 75 paise per sq. foot for land in Final Plot No. 6/33 and 25 paise per sq. foot for land in Final Plot No. 6/34, and ordered payment of the same to the landowners (claimants) along with 15 per cent solatium payable on the market value of lands in all the plots except that in Plot No. 7-A and interest at 4 per cent on the aggregate of both amounts. 14 claimants out of 23 of them, who were not satisfied with the amount of compensation awarded for their lands, caused the Special LAO to make references to the Court of Civil Judge, Senior Division, Sholapur under Section 18 of the Act and claimed from the Court grant of enhanced compensation for their acquired lands. That Reference Court on consideration of the evidence adduced by contending parties in the references before it, enhanced the market value of the acquired lands respecting which enhanced compensation had been sought, at 80 paise per sq. foot and ordered payment of the enhanced compensation to the claimants concerned, by rendering a common judgment and separate decrees in that regard.

3. While the State preferred appeals in the High Court against the common judgment and separate decrees of the Reference Court seeking reduction in the amount of compensation determined by it, the claimants preferred cross-objections in those appeals seeking further enhanced amount of compensation. The High Court, on reappraisal of the entire evidence in the cases, enhanced the market value of a small extent of land carved out as sites in Plot No. 8 before their purchase by the claimants as building sites, at the same value in which they had been purchased before the acquisition. But it reduced the market value of the remaining, almost the whole extent of acquired land in Final Plot No. 8 and the entire area of acquired lands in Final Plot Nos. 7-A, 97, 6/33 and 6/34 to 38 paise per sq. foot. However, it increased the market value of land in Final Plot No. 7-A by 10 per cent having regard to its closer proximity to the well developed township of Sholapur. It modified the judgment and decrees of the Reference Court questioned before it accordingly by its common judgment dated December 23-24, 1971 / February 28, 1972 and decrees made thereon.

4. The State and the claimants have preferred the present appeals and cross-appeals against the said common judgment and decrees of the High Court seeking reduction and enhancement respectively, in the market value of lands acquired out of Final Plot Nos. 8, 97, 6/33 and 6/34 for which market value is determined at 38 paise per sq. foot and of land in Final Plot No. 7-A for which market value is determined at 38 paise per sq. foot plus 10 per cent increase given thereon.

5. Before us, the learned counsel for the State sought to support its appeals while the counsel for the claimants sought to support their cross appeals. The submission of the learned counsel for the State was that the evidence on which the High Court had relied for fixing the market value of the acquired lands warranted reduction in such market value. On the other hand, the submission of the learned counsel for the claimants was that the very evidence on which the High Court had determined the market value of the acquired lands warranted enhancement in the market value of the acquired lands.

6. Question of interference with the determination of market value of lands acquired under the Act made by the High Court cannot arise unless it is shown that the High Court in determining such market value has failed to follow the method of valuation of land warranted by law or has misapplied any principle of valuation in appreciation of evidence or has committed a manifest error, resulting in gross undervaluation or over valuation of the acquired land.

7. In the Land Acquisition References out of which the present appeals have arisen, common evidence has been adduced by the contesting parties in that it was agreed by them that the market value of all the acquired lands could be determined by the Reference Court on the basis of that common evidence. The High Court has determined the market value of the acquired lands on appreciation of that common evidence. The High Court has examined the instances of sales and awards on which reliance was placed by the contesting parties as those which could form the basis as comparable sales and awards for determination of the market value of the acquired lands. However the High Court has on such examination taken sq. foot price fetched by sales of sites carved out in an unapproved layout formed in one of the lands of the acquired plots as the basis for determination of market value of the entire acquired plots of open agricultural lands. If there were instances of sales of considerably large plots of open lands at or near about the acquired plots of lands effected on the basis of their acreage, the High Court would have been left with no option except to determine the market value of the acquired plots of lands, each plot comprising several acres, on their acreage market value. Even though the instances of comparable sales relied upon by the parties in the cases on hand, for determining the large plots of several acres of land under acquisition are small extents of lands of certain sq. feet only, a right course for the High Court to adopt was to determine the market value of large areas of the acquired lands by finding out with reference to such comparable sales, as to what each acre of acquired land could have fetched if the same had been sold at the relevant time on wholesale basis in the open market. That would be so, for the reason that no purchaser of a large extent of land comprised of several acres would even think of purchasing such land by paying its price on sq. foot basis. However, the fact that such a course is not adopted by the High Court in determining the market value of the large extents of acquired lands, in our view, cannot in the facts and circumstances of the cases, form the basis for either reducing or enhancing the market value of the acquired lands determined by the High Court in that the market value so determined which works out at the rate of about Rs 16,500 an acre for certain acquired lands and about Rs 18,000 an acre for the remaining acquired lands which were closer to township, cannot be regarded as either too low a price or too high a price. The High Court has referred to the prices fetched by certain sales of sites in an undeveloped layout of open land in one of the acquired plots of land, i.e., Final Plot No. 8. Some of such sites formed a portion of the frontage of the layout and were situated closer to a National Highway while some others formed the rear portion of the layout and were situated at considerable distance from the National Highway. The price fetched by sales of the frontage sites was about 83 paise per sq. foot while the price fetched by sales of rear sites was about 63 paise per sq. foot. According to the High Court if all the sites in the layout as demarcated had been sold, the average sq. foot price that would have been fetched from their sales would have been of 73 paise per sq. foot. Fetching of 73 paise per sq. foot price by sale of all the sites in the layout could have become possible according to the High Court, only after a lapse of several years. Consequently the High Court found it necessary to make certain allowances in that price for the years of waiting by the claimants involved to sell all the sites in the layout. It also found that 73

paise per sq. foot fixed as the average price to be fetched by sale of actual site area in the layout was possible because of leaving of substantial spaces in the layout for the roads, drains and other open spaces needed for providing the amenities and because of the approval obtained from Town Planning Authorities for forming such layout. The High Court found it necessary to make an allowance in that price on the said account in fixing the value of the entire area of the acquired lands. Ultimately, the High Court by making 35 paise allowance in the price of 73 paise per sq. foot on account of the said factors fixed the average price of the lands to be fetched by sale of the entire plots of the acquired lands in the condition in which they were at the time of preliminary notification at 38 paise per sq. foot. When the High Court, having referred to the evidence in the cases as to the long period of waiting by the owners which would have been involved if they had to sell the whole lot of sites covering the whole extent of acquired plots of lands in the layout to be formed by obtaining approval of the Town Planning Authorities concerned, the extent of land to be set apart for roads, drains and open spaces in the layout concerned, has arrived at the average price of 38 paise per sq. foot of the entire acquired lands at the time of preliminary notification, it is difficult to say that the High Court was not justified in reaching such conclusion. Again, when the High Court has increased the price of lands in Final Plot No. 7-A alone by 10 per cent on 38 paise per sq. foot of land having regard to its close proximity to developed township, there can be equally no valid reason for us to say that it was not justified in doing so.

8. Thus, when it is clear that the High Court in determining the market value of the acquired lands has not adopted any method of valuation which was unwarranted by law and in the facts and circumstances of the cases, has not misapplied any principle of valuation which it had adopted for determining the market value of the acquired lands and further has not committed any manifest error which has resulted in fixing either grossly high value or grossly low value for the acquired lands, we find no warrant for interfering with the judgment and decrees of the High Court questioned in the present appeals and cross-appeals of the State and claimants, respectively.

9. In the result, both the appeals and cross-appeals are dismissed. However, in the facts and circumstances of the cases, we do not propose to make any order as to costs.