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STATE OF MAHARASHTRA

v.

GURAPPA HIROJIRAO AND ORS. AND VICE VERSA .

JANUARY 25, 1994

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[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

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Land Acquisition Act, 1894—Ss. 4, 6, 12, 18—Agricultural Land lying within limits of Municipal Corporation—Acquisition of—Compensation—Determination of—Held, High Court was right in referring to evidence as to long period of waiting by land owners involved in obtaining approval of Town Planning Authorities in the event of selling whole extent of acquired plots of lands in the lay out to be formed, extent of land to be set out for roads, drains and open spaces in the lay out—Determination of market value of lands acquired made by High Court cannot be interfered with unless it is shown that High Court has failed to follow method of valuation of land warranted by law or has misapplied any principle of valuation in appreciation of evidence.

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The State Government acquired under the Land Acquisition, 1894, about 108 acres of agricultural land of certain land owners lying within the limits of a certain Municipal Corporation. The State Land Acquisition Officer made an award. Some of the claimants not satisfied with the award, caused a reference made under s. 18 of the Act, and claimed enhancement in the compensation. The reference-Court enhanced the compensation to Rs. 0.80 per sq. foot.

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The State filed appeals whereas the claimants filed cross objections in the High Court seeking reduction and enhancement respectively in the compensation. The High Court enhanced the market value of a small extent of land carved out as building sites before their purchase by the claimants, but reduced the market value of the remaining almost the whole acquired extent of, land to Rs. 0.38 per sq. foot. However, out of said lands it increased the market value of some of the lands by 10 per cent having regard to its closure proximity to the well developed township. Aggrieved, the State as well as the claimants filed the appeals and the cross-appeals by certificate.

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Dismissing the appeals, this Court

HELD: 1. Questions of interference with the determination of market value of lands acquired under the Lands Acquisition Act, 1894 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 under-valuation or over-valuation of the acquired land. [340-B]

2.1. The High Court has determined the market value of the acquired lands on appreciation of evidence adduced in the case and has examined the instances of sales and awards relied upon the contesting parties to form the basis as comparable sales and awards for determination of the market value of the acquired lands. [340-D]

2.2. 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 cannot be said that the High Court was not justified in reaching such a conclusion. Nor can it be said that the High Court was not justified in increasing the price of some of the lands by 10 per cent on 38 paise per sq. foot having regard to its close proximity of developed township. [341-H; 342-A-B]

3. 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, nor has it committed any manifest error which has resulted in fixing either grossly high value or grossly low value for the acquired lands. There is no warrant for interfering with the judgment and decrees of the High Court. [342-C-D]

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 596 to 601 of 1973 etc. etc.

From the Judgment and Order dated 22, 23, 24.12.1971 & 28.2.1972

A of the Bombay High Court in F.A. Nos. 479, 481, 482 & 484 to 486 of 1971.

S.K. Dholakia, S.M. Jadhav and A.S. Bhasme for the Appellant.

U.R. Lalit, Vineet Maheshwari and R.K. Maheshwari for the Respondents.

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The Judgment of the Court was delivered by

C **VENKATACHALA, J.** 1. Civil Appeals Nos. 596-601 of 1973 and Civil Appeals 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.

D 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 its Gazette dated 10th October, 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 F Section 11 of the Act determining the market value of the land in Final Plot No. 7-A at Rs. 6,000 an acre, Final Plot No. 8 at Rs. 5,500 an acre, Final Plot No. 97 at Rs. 5,000 per acre, 0/75 paise per sq. foot for land in Final Plot No. 6/33 and 0/25 paise per sq. foot for land in Final Plot No. 6/34, and ordered payment of the same to land-owners (claimants) along G 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 H 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 0/80 paise per sq. foot and ordered payment of the enhanced compensation to the concerned claimants by rendering a common judgment and separate decrees in that regard.

3. The State while 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 acquired extent of land in Final Plot No. 8 and the entire area of acquired lands in Final Plots 7-A, 97, 6/33 and 6/34 to 0/38 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 23/24, 12.1971/28.2.1972 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 Plots Nos. 8, 97, 6/33 and 6/34 for which market value is determined at 0/38 paise per sq. foot and of land in Final Plot No. 7-A for which market value is determined at 0/38 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

A value of the acquired lands warranted enhancement in the market value of the acquired lands.

B 6. Question of interference with the determination of market value of lands 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 under-valuation or over-valuation of the acquired land.

C 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 D 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 E 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 F option except to determine the market value of the acquired plots of lands, each plot comprised of 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 G course to adopt for the High Court 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 whole-sale 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 H such land by paying its price on a 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 other formed the rear portion of the layout 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 allowance 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

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A 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
B 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 of developed township, there can be equally no valid reason for
us to say that it was not justified in doing so.

C 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 valua-
tion 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
D 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.

E 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.

R.P.

Appeals dismissed.