

PETITIONER:
SPECIAL LAND ACQUISITION OFFICER.BANGALORE

Vs.

RESPONDENT:
SRI DYAVAPPA AND OTHERS

DATE OF JUDGMENT 29/08/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1995 SCC (5) 584 1995 SCALE (5)189

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

A notification under s.4(1) of the Land Acquisition Act (for short, 'the Act') was published on October 6, 1975 acquiring Ac. 7.14 cents of land near Bangalore for Agriculture University. Pursuant to the notice under ss.9 and 10. the respondents claimed compensation at the rate of Rs. 60,000/- per acre. The Land Acquisition Collector awarded compensation for the agriculture land to the extent of Ac.5.20 cents, @ Rs.12,000/- per acre and for Ac. 1.34, he awarded @ Rs.1,000/- per acre, treating the same as phot-kharab land. On reference under s.18, the Court relying upon a sale deed, Ext.P6 dated February 24, 1975 to an extent of Ac.1.8 cents sold at Rs.50,000/- per acre which was purchased for setting up of a factory, awarded Rs.42,500/- per acre. Being dissatisfied, the appellant preferred appeal before the High Court, who by its impugned judgment dated September 7, 1979 confirmed the same, against which these appeals by special leave have been filed.

Two contentions have been raised by Mr.M.Veerappa, learned counsel for the appellant. First, it is argued that in view of the fact that the lands under Ext-P.6 are situated at a distance of 2 to 3 furlongs from the acquired lands, it would be evident that those lands are not similarly situated and, therefore, awarding compensation at the rate of Rs.42,500/- per acre relying on Ext.P.6 is not justified in law. We find no force in the contention. The High Court has considered the fact that the lands are nearer to the Bangalore-Mysore Road and near about the lands where Coca Cola factory is established. Finding these circumstances favourable to the respondents, the High Court confirmed the award at the rate of Rs.42,500/- per acre.

It was next contended that the Reference Court and the High Court were not justified in awarding compensation at the rate of Rs.42,500/- for Ac.1.34 cents which is phot-kharab when the agriculture lands also had been awarded at the rate of Rs.42,500/- per acre. Though prima facie we were

impressed with this argument but, unfortunately, this contention was not raised in the High Court nor the High Court had advantage of going into this circumstance. Even the Reference Court judgment has not been made part of the record. Therefore, we are unable to know what are the grounds that weighed with the reference court to award compensation at the rate of Rs.42,500/- for the phot-kharab land to the extent of Ac.1.34 cents. It is also to be seen that this point was not raised in the grounds of appeal in this Court.

In these circumstances, we are constrained not to agree with the contentions raised by the appellant. The appeals are accordingly dismissed. No costs.

JUDIS