

PETITIONER:
ASTEKAAR NAGANAATHA RAO & ORS.ETC.

Vs.

RESPONDENT:
THE ASSISTANT COMMISSIONER AND LANDACQUISITION OFFICER & ORS

DATE OF JUDGMENT: 05/01/1996

BENCH:
JEEVAN REDDY, B.P. (J)
BENCH:
JEEVAN REDDY, B.P. (J)
MAJMUDAR S.B. (J)

CITATION:
1996 SCC (7) 160 JT 1996 (1) 108
1996 SCALE (1)116

ACT:

HEADNOTE:

JUDGMENT:

WITH
CIVIL APPEAL NO. 1626 OF 1996
[Arising out of SLP [C] No.6975 of 1992]
O R D E R

Leave granted.

Around 300 acres of agricultural land situated in Sambre [Belgaum Airport], Balekundri, Mutage were requisitioned in 1942, possession thereof was taken in 1942 and the court below had put the date on December 31, 1942, for the defence purposes, viz., establishment of Air Force Station. The notification under Section 4 (1) of the Land Acquisition Act, 1894 [for short, "the Act"] acquiring these lands was published on February 24, 1983. The Land Acquisition Officer [LAO] determined the compensation @ Rs.6,000/-per acre. On reference, the civil Court enhanced the compensation to Rs.70,400/- per acre adopting the method of hypothetical lay-out. The High Court in the impugned judgment made in MFA Nos.1821/89 & batch remanded the matters without upholding the hypothetical lay-out giving reasons in support thereof. [When the lands are frozen for open sale the hypothetical lay-out is an artificial embellishment to award higher compensation]. The question would arise: Whether the lands other than the acquired land, were available for sale in the open market. In 1942, when possession was taken as agricultural land for air field, the lands could not have been sold in 1942 for building purposes as hypothetical for lay-out. The High Court was, therefore, right in rejecting the application of principle of hypothetical lay-out which is but a figment.

In view of the fact that cases are pending for a long time, we have suggested to the counsel for the Union of India as well as for the claimants to have a negotiation for settlement of the amount. We are informed that pursuant to directions of this Court the parties have settled the amount at Rs.45,000/- per acre with solatium at 30% and also

entitlement of additional amount at 12% per annum under Section 23[1-A] of the Act, payable from the date of taking possession. The only point on which the parties could not reach a consensus is the entitlement to payment of interest. It is contended by Shri Javali, the learned senior counsel that from 1942 no amount as rent has been paid and now stated to have been paid partly a sum for 1975-76 to 1982 and it cannot be considered to be lease amount. In view of the settlement by the parties that the compensation payable to the appellants is Rs.45,000/- per acre, the question of determination of the compensation does not arise. Consequently, they are also entitled to the compensation at that rate and solatium at 30% and also additional amount at 12% under Section 23[1-A] of the Act, as agreed upon by the parties, from the date of taking possession which the Court has fixed, viz., December 31, 1942. In other words, the claimants would be entitled to the additional amount from January 1, 1943 till the date of publication of notification under Section 4[1]. The question that arises for consideration is from what date the appellants are entitled to interest. The additional affidavit filed in this Court would show that the Tehsildar had directed the Union of India payment of rent to the owners of the land and to send the same for the period from 1975-76 to 1981-82. In other words, upto December 31, 1982, he directed a sum of Rs.2,60,683.98 to be sent. Accordingly, a demand draft dated January 2, 1984 was sent to the Tehsildar. For the earlier period, no record was available in their office. Therefore, no direction for payment for the said period was given. We agree that it would be difficult to decide whether payment of rent was paid for the earlier period. It would appear that the Tehsildar deducted Rs.1,99,815.07 towards land revenue and a sum of Rs.46,174.05 was paid to the claimants towards rent. That appropriation appears to be obviously incorrect. They could not deduct the land revenue from the amount payable to the appellants as rent. Consequently, the respondents are liable to pay the rent payable to the tune of Rs.2,60,683.98 for the above period. The Tehsildar shall accordingly make over the payment. Out of total amount, it is an admitted case that Rs.46,17,405/- has already been paid to the respective persons. Giving credit to the amount already received, the balance amount shall be paid to the land owners.

Since notification under Section 4(1) of the Land Acquisition was published on February 24, 1983, the appellants are entitled to interest @ 9% for one year from that date and on expiry thereof, they are entitled to the payment of 15% from 25th February 1984 till the date of deposit.

The appeals, accordingly, are allowed as indicated above. No costs. The respondent are directed to pay the amount within a period of six months from the date of the receipt of this Order.