

PETITIONER:
STATE OF UTTAR PRADESH ETC.

Vs.

RESPONDENT:
SMT. RAM KUMARI DEVI ETC.

DATE OF JUDGMENT: 15/02/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
JT 1996 (3) 380 1996 SCALE (2)627

ACT:

HEADNOTE:

JUDGMENT:

WITH
CIVIL APPEAL NOS. 3815-16 OF 1996

(Arising out of SLP (C) Nos.12146/95 and 16059/95)

AND
CIVIL APPEAL NO. 3817 OF 1996

[Arising out of SLP (C) No.11256 of 1995]

O R D E R

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

Notification under Section 4(1) of the Land Acquisition Act 1 of 1894 (for short, the 'Act') was published on September 14, 1985 acquiring 13.75 acres for setting up the Government Degree College at Lalitpur, State of U.P. The Land Acquisition Officer in his award dated September 1, 1988 made under Section 11 of the Act determined the compensation at the rate of Rs. 11,887.78 per acre. On reference under section 18 of the Act, the District Judge by his award and decree dated April 21, 1990 determined the compensation at the rate of Rs.5/- per sq. ft. On appeal by the appellants, the High Court reduced the compensation to Rs.3.30 per sq. ft. by judgment and decree dated November 16, 1994 in First Appeal No.603/93 etc. Thus these appeals by special leave.

It is contended by Shri A.B. Rohtagi, learned senior counsel for the appellants that the whole approach adopted by the High Court and the reference Court is clearly illegal and erroneous. When 13.75 acres of land was acquired for public purpose, would a reasonable prudent purchaser offer to purchase the land at the square foot basis is the question posed and rightly posed by the learned counsel for the appellant. The reference Court relied on three sale deeds Ex.A2, A3 and A1. Ex.A2 relates to an extent of 60'x20' of land sold by the claimant himself on October 18, 1984 for a sum of Rs.6,000/- which worked out at the rate of

Rs.5/- per sq. ft. He also sold an extent of land of 40'x40' ft. for a sum of Rs.8,000/- under Ex.A3 on January 19, 1983. 1600 sq. ft. was sold for a sum of Rs.8,000/- on January 18, 1983 under Ex.A1. The reference Court relied upon these sale deeds and also the rates prescribed by the local administration for the purpose of stamp duty at Rs.8/- per sq. ft. for the road margins and Rs.5/- per sq. ft. for the interior land. Relying thereon, the reference Court determined the compensation at Rs.5/- per sq. ft. The High court while accepting the same, deducted 1/3rd towards developmental charges and determined the compensation at Rs.3.30 per sq. ft.

It is seen that small pieces of land of an extent of 60'x20', 40'x40' and 1600 sq. ft. were sold by the claimants, obviously on coming to know of the proposed acquisition. It is common knowledge that acquisition proposal would be made at an earlier point of time and finalization of acquisition would take long time. In the process, on becoming aware of the acquisition, obviously, these sale deeds have been brought into existence to inflate the market value. It is laid down by this Court which is well settled principle that it is the duty of the court to assess reasonable compensation. Burden is on the owner to prove the prevailing market value. On adduction of evidence by the parties, the acid test which the Court has to adopt is that the court has to sit in the armchair of a prudent purchaser, eschew feats of imagination and consider whether a reasonable prudent purchaser in the open market would offer the same price which the Court is intending to fix the market value in respect of the acquired land. Since it is a compulsory acquisition, it is but the solemn duty of the Court to assess reasonable compensation so as to allow the same to the owner of the land whose property has been acquired by compulsory acquisition and also to avoid needless burden on public exchequer. No feats of imagination would require to bog the mind that when 13.75 acres of land was offered for sale in an open market, no prudent man would have credulity to purchase that land on sq. ft. basis. The High Court as well as the District Judge have committed a grave error in not applying the above acid test while considering the case. They merely proceeded by accepting the sale deeds which were obviously brought into existence to inflate the market value and determined the compensation on the price settled by them. Thus, we hold that both the Courts have applied a wrong principle of law in determining the compensation.

The question then is: what would be the reasonable market value? In the synopsis of the case, the appellants themselves have indicated and the counsel has reiterated that they are agreeable to pay at the rate of Rs.30,000/- per acre. In view of their admission, the market value is determined at Rs.30,000/- per acre.

The claimants are entitled to statutory solatium under Section 23 [2] and interest under Section 28 till date of deposit of compensation amount and also additional amount under section 23(1-A) on enhanced compensation of the compensation.

The appeals of the State are accordingly allowed.

No costs.

CA NO. 3817 OF 1996

[@ SLP (C) No.11256 of 1995]

This appeal being a cross-appeal by the claimant for further enhancement of compensation, is dismissed. No costs.

JUDIS