

PETITIONER:
THE STATE OF BIHAR

Vs.

RESPONDENT:
MADHESHWAR PRASAD

DATE OF JUDGMENT: 08/08/1996

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

CITATION:
1996 SCALE (6)287

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short the 'Act') was published on September 16, 1981 acquiring 3 acres 17 decimals of land for Suvarnarekha Project. The Land Acquisition Officer by his award dated September 3, 1985 granted compensation at Rs.14,445/- per acre. On reference, the Subordinate Judge enhanced it to Rs.15,055/- per acre. Both the State as well as the claimants filed the appeals in the High Court. The High Court in the impugned judgment in FA No.105 and 93 of 1987 dated June 1, 1993 enhanced the compensation to Rs.45,000/- per acre treating the acquired land in Don I as cultivable land. It also granted Rs.20,000/- towards the well and statutory solatium and interest. Thus, these appeals by special leave.

The question that arises for consideration is: whether the High Court was justified in enhancing the compensation to Rs.45,000/- per acre? The High Court has relied upon the sale deed Ext.3/A dated March 16, 1981 pertaining to lead of an extent of 25 decimals of Don-II lands and 14 decimals of Don-I lands sold for consideration of Rs.16,000/-. It also relied upon another sale deed of the year 1983 with value of Rs.1,10,000/- per decimal, in other words, Rs.45,000/- per acre. Unfortunately, neither the vendor nor the vendee has been examined in proof of passing of the consideration under the sale deed etc. Only a clerk of the Sub-registrar was called as witnesses to prove the sale deeds which are the certified copies of the sale deeds. No doubt, under Section 51-A of the Act, the certified copy of the sale deed is admissible as evidence to get over the difficulties of the owner of the document would not produce the original title deeds. The clerk of the Sub-registrar has proved that material as secondary evidence but other factors aliunde has to be established that the sale deed offers comparable value for determining the compensation at Rs.45,000/- per acre.

This Court had elaborately considered and laid this principle of law in a catena of decisions, the latest being R.Ram Reddy & Ors. vs. Land Acquisition Officer, Hyderabad & Urban Development Authority, Hyderabad & Ors. [(1995) 2 SCC 305]. Therefore, it needs no reiteration.

But, the fact is that the lands are situated very near to the national highway but 4 km. away from the Jamshedpur city. Under these circumstances, taking into consideration the facts and circumstances, we are of the view that the reasonable compensation would be Rs.22,000/- per acre. The claimants are not entitled to the value of the well i.e, Rs.20,000/- since the well was being used for irrigation of the land. For the reason, it cannot be separately valued as held by this Court in O.Janardhan Reddy & Ors. vs. Spl. Dy. Collector, L.A Unit-IV, LMD, Karimnagar, A.P. & Ors. [(1994) 6 SCC 456].

The appeals are accordingly partly allowed. The market value of lands is determined at Rs.22,000/- per acre with solatium and interest and also additional amount as per Section 23(2) @ 30% on the enhanced compensation, interest under Section 28 for the first year at 9% and thereafter at 15% on the enhanced compensation from the date of taking possession till date of deposit. They are also entitled to the additional amount at 12% p.a. under Section 23(1-A) of the Act from date of notification under section 4(1) till date of award or taking possession whichever is earlier. No costs.