

CASE NO.:  
Appeal (civil) 1085 of 2001

PETITIONER:  
AGRA DEVELOPMENT AUTHORITY

Vs.

RESPONDENT:  
SPECIAL LAND ACQUISITION OFFICER & ORS.

DATE OF JUDGMENT: 07/02/2001

BENCH:  
S. Rajendra Babu. & S.N. Variava.

JUDGMENT:

S. N. VARIAVA, J.  
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Leave granted.

This Appeal has been filed against a Judgment dated 5th January, 2000, wherein a writ petition filed by the Appellant has been dismissed.

On 30th January, 1989, a notification under Section 4 of the Land Acquisition Act 1894 had been issued for acquiring approximately 751.22 acres of land. On 8th February, 1990, notification under Section 6 was issued. On 29th February, 1992, Award was made. This land had been acquired by the Appellant for development of the Taj Nagri Avas Yojna Phase II. Under the Award the compensation has been fixed at the rate of Rs. 130/- per sq. yd. for the land situated inside the municipal area and at the rate of Rs.97.50 per sq. yd. for the land situated outside the municipal area.

The Appellants are aggrieved by the fixing of compensation at the above mentioned rates. As the land was acquired for their benefit they cannot, by virtue of Section 50 of the Land Acquisition Act, demand a reference under Section 18. The Appellants have thus challenged the Award. The Writ Petition came to be dismissed by the impugned Judgment dated 5th January, 2000.

It was also urged that the Special Land Acquisition Officer had played a fraud in fixing the rate of compensation. The only basis for this submission was that the Agreement, on which reliance was placed to fix the compensation, contained two different prices at different places. We find no substance in this submission. The Agreement is a registered document. The price relied on is the price shown in the records. There is also, on the Agreement, the endorsement of the Sub-Registrar showing what the correct price was. All this makes it clear that the price relied upon is the correct price in the Agreement.

It is next urged that the Appellants were not given any

opportunity to adduce evidence in the proceedings before the Collector for fixation of the cost of acquisition. It was fairly admitted that the Appellants were aware of the proceedings. However, no notice had been issued to them and they had not been given any opportunity to adduce evidence for purposes of determining the amount of compensation.

To this submission no adequate answer could be given by the Respondents. All that was submitted was that the Appellants were aware of the proceedings and had held meetings with the Government and the Collector. In our view this is not sufficient. What is required by Section 50 of the Land Acquisition Act is that the body for whom the property is being acquired is given an opportunity to appear and adduce evidence for the purposes of determining the amount of compensation. Nothing could be shown to us that this had been done. On this point the matter requires to be sent back to the Special Land Acquisition Officer for re-fixing compensation payable.

Thus the Appeal is allowed. We remit the matter back to the Special Land Acquisition Officer for re-fixing the compensation payable after giving a notice to the Appellant to appear and adduce evidence before him. As the matter is being remitted back, we clarify that if any other party is desirous of adducing further evidence, they will also be entitled to do so. After considering the material, which is placed before him, the Special Land Acquisition officer shall fix the compensation and re-declare or amend his Award appropriately within a period of six months from today.

Before we part with this Appeal it must be mentioned that by an interim order dated 9th May, 2000, stay to the operation of the Award, had been granted subject to the Appellant's depositing compensation at the rate of Rs. 78/- per sq. yard within the Municipal limits and Rs. 58/- per sq. yard outside the Municipal limits. We were informed that this amount has been deposited. By an order dated 29th September, 2000 this Court permitted the competent authority to disburse the amount deposited. We have been told that the amount has already been disbursed. Mr. Sibal has very fairly stated that the competent authority need not recall the amounts disbursed from the persons to whom they have been paid. We clarify that, as the acquisition proceedings are not being set aside and the Special Land Acquisition Officer is merely being directed to re-fix the compensation, the amounts already disbursed pursuant to the orders of this Court will not be recalled but will be finally adjusted in the compensation which is ultimately found to be payable.

We also clarify that if the acquisition has been challenged in any proceedings, this order will not affect those proceedings. The concerned court will decide those proceedings on their own merits.

The Appeal stands disposed off accordingly. There shall be no order as to costs.