

PETITIONER:
RATAN LAL GUPTA & ORS.

Vs.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT 21/11/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
PARIPOORNAN, K.S.(J)

CITATION:
1996 SCC (7) 3 JT 1995 (9) 105
1995 SCALE (6) 698

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

The application for substitution is allowed.

Notification under Section 4(1) of the Land Acquisition Act, 1874 (for short 'the Act') acquiring, land admeasuring about 5.29 acres (28 bighas) comprised in Khasra No.351/305/162 etc, situated in Yaquatpur, Delhi for the planned development (was published in the Union Gazette on February 4, 1964). The Compensation at Rs.5,000/- per bigha together with 15% solatium and interest @ 6%. The Additional District Judge by his award and decree dated August 5, 1969, determined the compensation at the rate of Rs.30/- per square yard. On further appeal under Section 54 of the Act, the learned single Judge determined market value at Rs.78/- per sq. yard, deducted Rs.7/- for development charges, fixed the land available as per the lay out at 78.45% of the land areas saleable for plots. The learned Judge further held that market value for undeveloped area was Rs.23/- per square yard while for the developed area in Greater Kailash Part-I, the market value come to Rs.39.34 per square yard. On application of the average, the learned Judge fixed the market value at Rs.40/- per square yard. On Letters Patent Appeal, the Division Bench in the impugned judgment and decree dated August 26, 1981 dismissed the appeal. Thus this appeal by special leave.

Shri Mukul Mudgal, learned counsel appearing for the claimants, contended that the learned single Judge having found that a sum of Rs.7/- per square yard would be required for development charges of the saleable land of 78.45% as per the lay out, committed an error of law in fixing average price of developed and undeveloped land at Rs.40/- per square yard. Having determined the market value at 78/- per square yard and having deducted an amount towards development charges and also determined the saleable plots of land at 78.45% of the land, he committed an error of law for further reducing the market value. Thus the learned

single Judge has applied wrong principle of law warranting interference.

The question, therefore, is what would be the correct market value that could be fixed as compensation of the land in question. It is seen that strong reliance was placed before the Reference Court on the sale transaction relating to developed area and undeveloped area. In the undeveloped area, the market value was Rs.23/- per square yard and in the developed area, the market value was Rs.39.34 per square yard. It is seen that the High Court found these lands connected with developed roads.

It has been repeatedly held by a catena of decisions of this Court that when the market value is to be determined on the basis of small plots of land the same price cannot be expected to be realised when a large track of land is offered to a willing purchaser by a willing vendor. When lay out has been obtained and the land is situated in a developed area, though sale relating to small plots of lands were produced before the Court, on recording a finding that such sales are genuine and not intended to inflate the market value of the land, this Court held that necessary directions should be given in determining the true market value based on resalable price at a future date.

It is an admitted fact that the lands in question are in undeveloped area though adjacent to the developed area, viz, Greater Kailash-I. The average price given by the Court also does not appear to be correct. In Administrator General of West Bengal vs. Collector, Varanasi (AIR 1988 SC 943) in paragraph 6, this Court had laid the principle of deduction of 53%, when small plots of land were found to be of genuine sale and situated in a potentially developed area as a wholesale price. In Hasanali Khanbhai and Sons & Ors. vs. State of Gujarat [(1995) 5 SCC 422] this Court also considered all the earlier cases and held that the small extents of land sold in plots, would not furnish the sole basis to fix same price offered by them. Therefore, the deduction of 60% of the value per square yard by the High Court was upheld by this Court. It is seen that since the lands in question are situated in undeveloped area, though adjacent to the road, it would take long time for realisation of potentialities as they would require further development. Considered from this prospective, the price of the developed area cannot be adopted ipso facto as the basis to determine compensation to these lands. Considering the facts that the land required development and having deducted 78.45% land which was required for building purposes, we think that proper market value would be Rs.50% per square yard. The appellants, therefore, are entitled to be compensated at that rate with interest at the rate of 6% on the enhanced compensation from the date of taking possession till the date of deposit into the Court. The claimants also are entitled to solatium @ 15% on the enhanced compensation.

The appeal is allowed but, in the circumstances, without costs.