

(2004) 09 JH CK 0007

Jharkhand High Court

Case No: A.F.O. Decree/Award No"s. 84, 85, 86, 87, 88, 89 to 121 of 1990 (R) and 516 of 1993 (R)

The State of Bihar

APPELLANT

Vs

Suraj Nath Teli and Others

RESPONDENT

Date of Decision: Sept. 18, 2004

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 4

Citation: (2004) 3 BLJR 1669

Hon'ble Judges: Gurusharan Sharma, J

Bench: Single Bench

Advocate: P.K. Prasad, SCCG, Shamim Akhtar, SC-II, for the Appellant; B.N. Dey, for the Respondent

Final Decision: Dismissed

Judgement

Gurusharan Sharma, J.

F.A. Nos. 84 to 121 of 1990 (R) arise out of a common judgment dated 30.1.1990 and F.A. No. 516 of 1993 (R) arises out of judgment dated 30.1.1993, all in respect of one and same land acquisition proceeding and common questions re involved therein, hence, all these appeals have been heard together and are disposed of by a common judgment.

2. Lands bearing various plot numbers, appertaining to Khata Nos. 3, 14, 23, 24, 26, 30, 36, 40, 47, 50, 56, 58, 64, 66, 70, 71, 72, 78, 79, 83, 88, 90, 98, 100, 101, 103, 104, 109, 132, 135, 140, 143, 156, 161, 163 and 164 of villages Bujrug Jamira and Pochra, within Ramgarh Police Station of Hazaribagh District were acquired for expansion of Ramgarh Cantonment. The aforesaid two villages were within the Ramgarh Cantonment Board area,

3. Notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter to be referred to as "the Act") was published in Hazaribagh District Gazette on 16.12.1983.

Declaration u/s 6 of the Act was published by the State Government in Hazaribagh District Gazette dated 14.10.1986.

4. Nature of lands under acquisition was recorded in Khatian as Dhan-I and II and land,-1, II and III. The Collector under the Act assessed compensation amount payable for Dhan and Tand-1 lands @ Rs. 43,712,00, Dhan-II @ Rs. 27329,00, Tand-II @ Rs. 10,928 and land-III @ Rs. 2,732,00 per acre.

5. Land holders claimed compensation at a flat rate of Rupees five lakhs per acre and as such, reference u/s 18 of the Act was made and L.R. Case Nos. 86 to 123 of 1989 and 35 of 1990 were registered before the Land Acquisition Judge, Hazaribagh.

6. By impugned judgments and awards, Land Acquisition Judge assessed market value of acquired land at a flat rate of Rs. 2500,00 per decimal, i.e., Rs. 2,50,000,00 per acre payable to the awardees.

7. The State Government through the Deputy Commissioner filed present appeals u/s 54 of the Act, challenging the impugned judgment and awards.

8. In these appeals, Union of India was made party-respondent as the lands were acquired for it and amount of compensation was also to be paid by it.

9. On behalf of awardees, all together four witnesses were examined, AW 1, who was Ward Commissioner of Ward No. 7 of Ramgarh Cantonment Board, stated that the lands under acquisition were situated on Ramgarh Patratu Road, at a distance of one mile from Subhash Chowk, Ramgarh. It was plain tand land. The land acquired for the telephone exchange earlier was at a distance of 100 yards from the lands in question. Jawans of Ramgarh Cantonment were using the land in question and no cultivation work was being done thereon.

10. AW 2 was one of the landholders. According to him, the land under acquisition was situated at a distance of 400-500 yards from the proposed telephone exchange building and there was a railway crossing in between. Ramgarh Cantonment Railway Station was at a distance of 1000 ft. and Army Regimental Centre was at a distance of 2000-3500 ft. from the lands under acquisition.

11. AW 3 another landholder stated that on proceeding from Subhash Chowk, Ramgarh for Patratu, firstly, the land acquired for the proposed telephone exchange building would come, thereafter, there is a railway crossing and after that, the lands under acquisition are situated. Barkakana Railway Station, according to this witness, was at a distance of one mile from Subhash Chowk and was near the lands in question. He claimed market value of the lands under acquisition @ Rs. 25,00,00 per decimal, which was awarded for the lands acquired for the proposed telephone exchange.

12. AW 4 was also a land-holder. According to him, the Rifle Range Road of Ramgarh. Regimental Centre passes at a short distance from the lands under

acquisition. Ramgarh Cantonment is an industrial area, where market, cinema hall, college railway quarters etc. as well as a number of industries were situated.

13. The awardee brought on record six sale deeds, which were marked Exhibits 1, 1(a), 1(b), 1(c), 1(d) and 1(e), Judgments of Land Acquisition Judge, Hazaribagh dated 8.6.1984 and 5.12.1994 in respect of the lands acquired for Agriculture Market Committee, Ramgarh and for Ramgarh Telephone Exchange building were respectively marked as Exhibits 2 and 2(a). Exhibit 3 was certified copy of Defence Department's Notification No. 408 dated 15.3.1941, whereby village Buzrug-Jamira and Pochra were declared to be Cantonment for the purpose of Cantonment's Act, 1924.

14. Exhibit-1 was sale deed dated 19.3.1982, whereby 2 decimals land of Ramgarh Town was sold for Rs. 20,000,00. Sale Deed dated 18.3.1985, whereby 2 decimals land within the Ramgarh Cantonment area was sold for Rs. 24,000,00 was marked as Exhibit 1(a). Vide sale deed dated 22.9.1987, 2-1/4 decimals land within Ramgarh Cantonment area was sold at Rs. 40,000,00, which was marked as Exhibit 1(b). House situated on 1-1/2 decimals land within Ramgarh Cantonment area was sold by sale deed dated 15.5.1985 Exhibit 1 (c) for Rs. 35,000,00, Exhibit 1(d) was sale deed dated 18.3.1982, executed for 2 decimals land of Ramgarh Town on a consideration of Rs. 20,000,00 and by sale deed dated 11.3.1985 Exhibit 1(e), 1-1/2 decimals land of Ramgarh Cantonment was sold for Rs. 21,000,00.

15. None of the sale deeds Exhibits 1 to 1(e) related to the lands of either village Buzrug-Jamaria or Pochra and were homestead in nature and as such, were purchased for building purpose.

16. Exhibit 2, judgment dated 8th June, 1984 of the Land Acquisition Judge related to the lands situated at Ramgarh-Gola- Dhanbad Road, which were acquired in the year 1980 for construction of Agricultural Market Complex. Market value of the said land was assessed at Rs. 2,000,00 per decimal. Exhibit 2(a) was another judgment dated 5.12.1989 of the Land Acquisition Judge, whereby market value of 2.49 acres land situated within Ramgarh Cantonment and was acquired for the telephone exchange, was fixed at Rs. 2,500,00 per decimal.

17. Three witnesses were examined on behalf of the State. OP.W. 1 was District Kanungo posted in District Land Acquisition Office, Hazaribagh. The said witness stated that the lands in question were required for extension of Sikh Regimental Centre, Ramgarh, It was situated on both sides of State Highway, which goes from Ramgarh to Patratu. Lands of village Buzrug-Jamira were on the northern side of road, whereas lands of village Pochra were on the southern side. Railway Colony was situated at a distance of 500 yards and Army Camp was quite near to the lands in question. According to him, Ramgarh Cantonment area was an industrial area and was developing day by day.

18. OP. W. 2 was a formal witness, who had proved reference letter, which was marked as Exhibit 1A". The rate report as well as the valuation khatian were also brought on record and marked as Exhibits "B", "B/1" and "C", "C/1".
19. In L.R. Case No. 35 of 1990, the land-holder-Rajendra Tiwary examined himself as A.W. 1 and stated that village Buzrug- Jamira was situated at a distance of 2 kilometers south from Ramgarh Town.
20. It is well settled that market value of the land is determined either on the basis of prevailing price of sale and purchase between willing vendor and willing vendee or on the value of crop realized applying 10 years" multiplier or in case of the land valued by expert valuer, like urban property is considered for determination of compensation under the Act. The market value cannot be fixed with mathematical precision, but must be based on sound discretion exercised by the reference Court in arriving at just and reasonable price, it should not be based on imagination.
21. What is fair, reasonable and adequate market value is always a question of tact depending on the evidence adduced, circumstantial evidence and probabilities arising in each case. The guiding factor would be whether a willing vendor would offer the lands and a willing purchaser in normal course would be willing to buy in normal market conditions, prevailing in the locality, in which acquired lands are situated, is on the date of notification u/s 4 of the Act.
22. It is paramount duty of the Court of facts to subject the evidence to close scrutiny and objectively assess the evidence tendered by the parties. A proper consideration of evidence in correct perspective is necessary to arrive at the reasonable market value. The land possessed of potentialities or some advantageous feature or any advantageous special circumstances available in each case also are to be taken into account. The object of assessment of evidence is to arrive at a fair and reasonable market value of the lands and in that process, sometimes trench on the border of guess work, but mathematical assessment has to be eschewed.
23. The burden of proof that the lands in question are capable of fetching higher market value is on the landholders-claimants. In the present case, the sale deeds, Exhibits 1 to 1(e) were not relevant as those lands were of Ramgarh Town and not of either village Buzrug-Jamira or Pochra,
24. In the present batch of appeals, I find in the lower Court records that in Exts. A, B-B/1 and C-C/1, the authorities concerned have inter alia observed in the rent report at page 4 under caption inquiry u/s 11 of the Act, "that the land in question is within Cantonment Ramgarh were situate in south of Ramgarh-Bhurkunda Road going to congestion and development of Ramgarh. This is the only segment, which may be picked up for developing new township for obvious reason that much prior to the acquisition process started, several denomination of land has been sold by the raiyat for construction of house."

25. On account of the effective economic, social and communication development, importance of the lands under acquisition, which are within the area of the cantonment has considerably increased. On the basis of evidence on record, the learned Land Acquisition Judge found that Ramgarh Town was situated adjacent to the lands in question. Accordingly, its valuation was rightly fixed by the Court below not according to the agricultural classification, which was wrongly done by the Collector under the Act.

26. I further find that the authorities involved in the acquisition proceeding on behalf of the Government have themselves highlighted the importance of the land in question regard being had to the location as also the future prospect besides the purpose for which the lands in question have been acquired.

27. The Court below scrutinized the evidence of the parties in detail in paragraphs 6 and 7 of the impugned judgment and rightly came to conclusion that the classification was immaterial and the totality of the land has to be taken into consideration in one and the same class linked with its potency to the prospect of its development proximity to the urbanized area and purpose of its acquisition. The Ramgarh cantonment Board area was developing day by day.

28. I therefore, find no reason to interfere with the impugned judgment and awards. There is no merit in these appeals. The same are dismissed, but without costs.