

(2012) 11 MP CK 0106
Madhya Pradesh High Court
Case No: F.A. No. 585 of 2012

Executive Engineer, Madhya
Pradesh Grah Nirman Mandal

APPELLANT

Vs

Smt. Vimla Devi (deceased),
Through grand daughter Ku.
Anjali and Land Acquisition
Officer

RESPONDENT

Date of Decision: Nov. 21, 2012

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 23(2), 28, 32, 54

Hon'ble Judges: A.K. Shrivastava, J

Bench: Single Bench

Advocate: Rakesh Jain, for the Appellant; Ravi Ranjan, Advocate Respondent No. 1 and
Shri Rahul Jain, Govt. Advocate Respondents No. 2, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Hon"ble Shri Justice A.K. Shrivastava

The order passed in this appeal shall also govern the disposal of connected F.A. Nos. 587/2012, 588/2012, 590/2012, 591/2012, 593/2012, 595/2012, 597/2012, 599/2012, 600/2012 and F.A. No. 602/2012.

1. This appeal u/s 54 of the Land Acquisition Act, 1894 (for short, the Act) has been filed on behalf of the appellant- Executive Engineer, Madhya Pradesh Grah Nirman Mandal against the award dated 24.12.2011 passed by learned First Additional Judge to the Court of First Additional District Judge, Seoni in Misc. Civil Case No. 15/2010 whereby the amount of compensation has been enhanced as indicated in the impugned award. No exhaustive statements of fact are required to be narrated for the purpose of disposal of this appeal since they have been elaborately written in

paras 2 to 6. Suffice it to say that the Land Acquisition Officer directed to pay compensation @ Rs. 1,18,568/- per hectare. An application u/s 18 of the Act was submitted by the first respondent to the Land Acquisition Officer and eventually the matter has been referred u/s 18 of the said Act to the Civil Court.

2. The learned Court below on the basis of different sale deeds and oral evidence came to hold that compensation should be paid @ Rs. 1,68,412/- per hectare and further in addition to this amount, respondent no. 1 is also entitled for 15% of the additional amount. Thus, the total amount comes to Rs. 1,93,674/-. The interest in terms of Sections 23(2), 28 and 32 of the said Act has also been directed to be paid. In this manner, this appeal has been filed by the appellant-Department.

3. The contention of Shri Rakesh Jain, learned counsel for the appellant is that the Land Acquisition Officer has rightly computed the amount of compensation to be Rs. 1,18,568/- and there was no necessity to the Civil Court to interfere in the compensation fixed by the Land Acquisition Officer and hence, it has been prayed that by allowing this appeal, the impugned award be set aside.

4. On the other hand Shri Ravi Ranjan, learned counsel for the claimant/respondent no. 1 argued in support of the impugned judgment and submitted that the potential value of the land which has been acquired is on much higher side and, therefore, rightly objection u/s 18 of the Act has been allowed by the Civil Court for enhancing the amount of compensation and, therefore, this appeal sans substance and same be dismissed.

5. Having heard learned counsel for the parties, I am of the view that this appeal deserves to be dismissed.

6. On bare perusal of the impugned award it is gathered that while deciding issues 1 and 2 on the basis of the sale deeds which were proved in evidence and on the basis of the oral testimony of the witnesses, rightly it has been held that the potential value of the land which has been acquired is on higher side and, thus on the basis of the valuation of the land nearby the vicinity of the land which has been acquired, rightly it has been assessed that its valuation is Rs. 1,68,412/- per hectare. The findings are based on correct appreciation of oral and documentary evidence and also on the basis of the decisions of the Supreme Court and that of this Court.

7. Learned counsel for the appellant further submits that the interest has been directed to be paid on higher side. However, I am of the view that looking to the provisions as envisaged under Sections 23(2), 28 and 32 of the said Act, rightly the interest has been directed to be paid and amount of solatium has also directed to be paid. Learned counsel could not point out how and in what manner the impugned award is faulty. Even otherwise, I have gone through the findings given by learned Court below and I find that by correctly appreciating the evidence, compensation has been assessed and enhanced. Resultantly, this appeal fails and is hereby dismissed with costs. Counsel fee Rs. 2000/-, if pre-certified.