Chaturbhuja Modi and Others Vs State of Orissa and Another

Civil Appeal No. 940 of 2004

Court: Supreme Court of India

Date of Decision: Aug. 11, 2010

Acts Referred:
Land Acquisition Act, 1894 â€" Section 18, 4(1)

Citation: (2011) 1 ALD 13 : (2010) 6 AWC 6525 : (2010) 12 SCC 234 : (2010) 9 SCR 849

Hon'ble Judges: Mukundakam Sharma, J; Anil R. Dave, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Mukundakam Sharma, J.
This appeal is directed against the judgment and order dated 12.09.2002 passed by the High Court of Orissa at

Cuttack. The appellant and the State filed three appeals before the High Court against the judgment and order dated 16.04.1998 passed by the

learned Civil Judge (Senior Division), First Court, Cuttack in L.A. Case No. 3 of 1995. The said appeal arose out of a land acquisition proceeding

pertaining to the land of the appellants - claimants herein.

2. A notification u/s 4(1) of the Land Acquisition Act was published on 09.12.1982, proposing to acquire land of the appellants measuring 2.429

acres covered under Khata No. 581 of Mouza - Bahar Bisinabar for construction of additional building, office, garage and staff quarters of Orissa

State Financial Corporation, Cuttack. The Land Acquisition Officer assessed the market value of the land at the rate of Rs. 75,000/- per acre. The

appellants - claimants sought for a reference to the learned Civil Judge as envisaged u/s 18 of the Land Acquisition Act, and the Ld. Judge after

receiving evidence adduced by the parties, enhanced the compensation to Rs. 1,50,000/- per acre. The appellants - claimants being dissatisfied

with the aforesaid determination of compensation, filed an appeal before the High Court, claiming a higher compensation at the rate of Rs. 12,

50,000/- per acre. After appreciation of the evidence available on record and relying primarily on the sale consideration in Exhibit 1, dated

06.10.1982, the High Court enhanced the compensation for the acquired land to Rs. 3,00,000/- per acre and also held that the appellants should

be entitled to other statutory benefits as available under the Act.

3. The appellants, still aggrieved, filed the present SLP in this Court in which leave was granted after which the appeal is listed for hearing. We

took up the appeal for hearing during the course of which we heard learned Counsel appearing for the parties who have painstakingly taken us

through the evidence on record in support of their contentions.

4. This appeal is filed to prove and establish that the acquired land is situated in the heart of the Cuttack City and close to the National Highway

No. 5. The land was acquired for construction of additional building of O.S.F.C. for accommodation of office etc. At the time of acquisition, other

commercial establishments like a cinema hall, hotel, etc. had already come up near about the acquired land. The learned Civil Judge as well the

High Court found that the acquired land is not on the side of National Highway No. 5 but the same is not very far away from the said Highway. It

is also on record that the acquired land is a low-lying land and remains water- logged round the year. But the said fact could not belie the fact that

the acquired land had great potential value. In order to assist the Courts to properly assess and determine the fair and reasonable market value, the

parties adduced evidence, both oral and documentary.

5. In this appeal, the parties have adduced limited evidence to establish their case. The records indicate that the appellants had filed two certified

copies of the registered sale deeds, namely Exhibits 1 and 2, which were of course exhibited without objection from the respondent. Sale deeds

were produced on behalf of the respondent - State and Land Acquisition Officer also, and they were exhibited as Exhibit B to B/3 but the same

were marked as such with objection. Exhibit 1, which was produced by the appellants herein, is a certified copy of the registered sale deed dated

04.10.1982. Under the aforesaid sale deed, a total land of Acre 0.0070 decimals in Baharbisinabar was sold for Rs. 40,000/- i.e. at the rate of

22,500/- per gunth or Rs. 5,50,000/- (approximately) per acre.

6. The other sale deed relied upon by the appellants - claimants is Exhibit 2, which is a certified copy of registered sale deed dated 17.04.1982 by

which land measuring Ac. 0.003 decimals was sold for Rs. 2,700/-. Exhibit 2 shows that a very small piece of land measuring only Ac. 0.003

decimals was sold at the rate of Rs. 9, 00,000/- per acre indicating its highly inflated value, which is established even when compared with Exhibit

1. Sale of such a tiny piece of land must have been for some specific object. The land which is acquired in the present case is a large tract of land,

measuring Ac. 2.429 decimals and therefore, Exhibit 2 cannot be put up as a safe guide and basis for determining the market value of the present

acquired land. The High Court has therefore rightly kept said sale deed out of its consideration. It has also come in evidence, which is referred to

and relied upon by the Civil Judge, that the purchaser of Exhibit 2 had his own land adjoining to the south of the land covered under it. Therefore, it

appears that the purchaser was in dire necessity for purchasing the said land for the convenience of his own adjoining land. That being the position,

the purchaser of the land in Exhibit 2 was even prepared to purchase the same at a higher value. Figures represented in sale deeds may not always

be seen by Courts as a parameter of existing fair values. In that view of this aspect, the assessed value of the acquired land is not comparable to

the land mentioned in Exhibit 2.

7. In so far as the evidentiary value of Exhibit 1 is concerned, the same is found to be proximate to the date of notification u/s 4(1) but under the

said notification, another small piece of land measuring Ac. 0.070 decimals of land was also sold for Rs. 5,50,000/- per acre. The document,

however, did not indicate whether the said land is in proximity to the acquired land or if the same is comparable to the land in question. By the

aforesaid sale deed, only a small piece of land was sold whereas the acquired land is a large tract of land.

8. Other sale deeds which were produced on behalf of the Land Acquisition Officer, namely Exhibits B to B/3, were placed on record under

objection. There is no evidence by the Collector indicating that the lands covered by the aforesaid sale deed transaction are in any manner

comparable land with that of the land under acquisition. The land under the said sale deeds are located in some other village whereas the acquired

land is ""Puratan Partita"" in Kisan, but the land sold vide Exhibit B series are Bari in Kisan. Therefore, the said sale deeds also cannot be made as

the basis for determining fair and reasonable market price of the land acquired.

9. The only evidence that could be considered and relied upon is Exhibit 1. The following criteria provide a good indication of whether a sale deed

may be comparable to the one in question: (1) it must be within a reasonable time of date of notification u/s 4(1) of the Act; (2) it should be a

bonafide transaction; (3) it should be a sale of the land acquired or of the land adjacent to the one acquired; and (4) it should possess similar

advantage. Although the land whose sale is evidenced in Exhibit 1 is not an excellent comparison in terms of area, the same indicates a sales

transaction completed at around the same time as the acquisition of the said land. Moreover, Exhibit 1 also concerns a plot that is in geographical

proximity to the acquired land. There being no other evidence on record, and since we are not inclined to remand the matter after such a long

delay, we would rely on Exhibit 1 with necessary scrutiny and caution. Reliance could be placed on the said documentary evidence for determining

and assessing the compensation of the acquired land after giving the necessary deduction.

10. The High Court appears to have taken notice of the aforementioned criteria and has given some discount in compensation as the land under

Exhibit 1 is a very small piece of land and the land acquired in the case in hand is much larger in size. After giving the said discount, the High Court

computed the compensation at the rate of Rs. 3,00,000/- per acre for the acquired land. While determining compensation, some conjecture is

unavoidable as it is generally not possible to have any documentary evidence of sale of land of similar nature and in the near vicinity of the acquired

land. The value shown in Exhibit 1 cannot be assessed as the value of the acquired land for the reason that the said land which is sold under Exhibit

1 is a very small piece of land, whereas the acquired land being a large tract of land. This Court has held in Administrator General of West Bengal

v. Collector, Varanasi, reported at (1988) 2 SCC 150 , that where large tracts of land are required to be valued, valuation in transactions with

regard to small plots is not to be taken as the real basis for determining the compensation of large tracts of land. It follows that where the market-

value of large block of land is determined on the basis of sale transactions for smaller property, appropriate deduction has to be made for making

allowance for the loss of the acquired land required to be used for internal development such as construction of roads, drains, sewers, open spaces

and the expenditure involved in providing other amenities like water, electricity etc. The extent of area required to be set apart has to be assessed

by the Court having regard to the shape, size and situation of the concerned block of land.

11. After giving some variations and discount, the High Court fixed the rate of the land at Rs. 3, 00,000/- per acre, which in our considered

opinion and in the light of evidence on record, seems to be just and proper. Consequently, we dismiss this appeal as we find no merit in it but

without any cost.