2025 INSC 393

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 14670 OF 2015

MANILAL SHAMALBHAI PATEL
(DECEASED) THROUGH
HIS LEGAL HEIRS & ORS. ...APPELLANT(S)

VERSUS

OFFICER ON SPECIAL DUTY
(LAND ACQUISITION) & ANR. ...RESPONDENT(S)

J U D G M E N T

PANKAJ MITHAL, J.

1. Heard Mr. Neeraj K. Kaul, learned senior counsel appearing for the appellants and Ms. Deepanwita Priyanka, learned counsel appearing for the respondents.

2. The land of the appellants, Survey No. 179/3 having an area of 0-98-14 sq. mt. situate in Village Ranoli, Taluka and District Vadodara, Gujarat was acquired by the

Government of Gujarat for a public purpose and for the benefit of Gujarat Industrial Development Corporation[1].

3. The notification proposing to acquire the aforesaid land under Section 4 of the Land Acquisition Act[2] was published on 24.07.1989 which was followed by the final Declaration under Section 6 of the Act dated 18.07.1990 to acquire the said land. The Special Land Acquisition Officer[3] in exercise of powers under Section 11 of the Act vide award dated 25.02.1992 offered compensation @ Rs.11 per sq. mt. The appellants were not satisfied with the above offer/award and as such preferred a Reference under Section 18 of the Act. The Reference Court vide its judgment, order and award dated 31.12.2011 passed in Land Reference Case No. 2303 of 1992 enhanced the compensation to Rs. 30 per sq. mt. in place of Rs. 11 per sq. mt. offered by the SLAO. The appellants were still not satisfied and as such they preferred First Appeal No.670 of 2012 under Section 54 of the Act before the High Court.

[1] 'GIDC' for short
[2] Hereinafter referred to as 'the Act'
[3] Hereinafter referred to as the 'SLAO'

The said appeal has been dismissed by the order impugned dated 14.08.2015.

4. Assailing the judgment and order of the High Court, two broad submissions have been advanced before us. The first is that there was ample evidence before the courts below to award higher compensation at least up to Rs.450/- per sq. mt. and in this connection much reliance has been placed upon the allotment of land of Plot No. 7/1 by the GIDC itself for establishing a petrol pump in the year 1988. Secondly, the courts below have not considered the existence of a large number of fruit bearing trees, particularly that of lemon and the income derived therefrom has not been taken into account.

5. Learned counsel for the respondents submitted that the compensation as determined by the SLAO is just and proper, at least there is no justification for enhancement of the compensation as awarded by the Reference Court. Therefore, High Court rightly dismissed the appeal.

6. The main plank of the appellants for enhancement of compensation is based on the allotment letter dated 07.06.1988 *(Exhibit 120)* pertaining to Plot No. 7/1

admeasuring 1900 sq. mt. situate nearby the acquired land. The said plot of land was allotted by the GIDC to M/s Dhanlaxmi Automobiles for establishing a petrol pump @ Rs.450/- per sq. mt. The said allotment was on lease whereas the land of the appellants was a freehold land and as such at the time of acquisition its value was not liable to be below Rs.450/- per sq.mt.

7. No doubt, the aforesaid Plot No. 7/1 was within the proximity of the GIDC area and was hardly about a kilometre away from the land of the appellants but it was for commercial purposes whereas the land of the appellants, which may have had the potential of becoming a developed area, was in reality, an agricultural land.

8. The letter of allotment of the said Plot No. 7/1 dated 07.06.1988 is on record. It reveals that the land for the purposes of petrol pump was first allotted on 18.07.1984 at a tentative price of Rs.70/- per sq. mt. with 25% of the frontage charges. Originally, the area of land allotted was 25000 sq. mt. but finally only 1900 sq. mt. was allotted with the condition that the allottee will accept the price whatever is fixed by the GIDC. The GIDC w.e.f. 25.03.1988

revised the premium prices of the lands in Ranoli Industrial Estate to Rs.180/- per sq. mt. Accordingly, the actual premium price of the said Plot No. 7/1 was worked out and was realised from the allottee.

9. The aforesaid allotment letter clearly reveals that the land of Plot No. 7/1 having an area of 1900 sq. mt. was allotted for the purposes of establishing a petrol pump initially on 18.07.1984 at a tentative rate of Rs.70/- per sq. mt. which was revised w.e.f. 25.03.1988 to Rs.180/- per sq. mt., meaning thereby that the GIDC, for whose benefit the present land had been acquired, itself had fixed the rate of Rs.180/- per sq. mt. of the land of the Ranoli Industrial Estate w.e.f. 25.03.1988. GIDC admits the premium price of the industrial land in Ranoli village to be Rs.180/- per sq. mt. from 25.03.1988.

10. The rate of the aforesaid plot fixed by GIDC w.e.f. 25.03.1988 was in close proximity with the acquired land and as such there appears to be no harm in taking it to be the best suitable exemplar. The land of the appellants was notified to be acquired under Section 4 of the Act on 24.07.1989. Thus, there is a gap of over a year between the

acquisition of the present land and the allotment of land of Plot No. 7/1 for establishing a petrol pump and fixing its price @ Rs.180/- per sq. mt. During this period of one year if the trend of rising prices is taken into account, one can easily say that the prices in this one year may have increased at least by 5%. Thus, increasing the rate of Rs. 180/- per sq. mt. by 5%, the revised rate comes out to Rs.189/- per sq. mt. rounded off to Rs.190/- per sq. mt.

11. It is an accepted principle that the land acquired is never used in the form it exists. It has to be first developed and made suitable either for habitation or for industrial purposes. In this connection, obviously roads have to be carved out, some open area has to be left for green belts, water, sewerage and electricity lines have to be laid down and the plots have to be carved out into some regular sizes and shapes. In this way, the transferable/saleable area hardly remains to be 50% of the land acquired. In such a situation, the courts have repeatedly held that 30% to 50% deduction be made from the rate for the purposes of such development. Even assuming that the acquired land is within the vicinity of the developed area or the Ranoli

Industrial Estate, nonetheless, it is an agricultural land, may be with a potential of a developed area, which requires development, as mentioned above. One cannot deny that the acquired land had to be developed as aforesaid before making it usable as an industrial site. Therefore, in the facts and circumstances, by applying some amount of guess work, we consider that at least 40% of the amount be deducted for the purposes of development.

12. It is also a settled principle of law that large areas do not attract the same price as is offered for the small plots of lands. Therefore, some amount of deduction is also normally permissible on account of largeness in area. Thus, deduction of at least 10% has to be applied to determine the rate of compensation.

13. The determination of the prevalent market value of the acquired land is not an algebraic formula and that cannot be determined in a precise or an accurate manner. Some amount of guess work is always permissible. Therefore, a judge has to sit in an arm chair and without much taxing his mind has to determine the market value in a prudent manner.

14. Thus, in the facts and circumstances of the case, when the GIDC itself has fixed the premium price of a plot of land in Ranoli Industrial Estate at a rate of Rs.180/- per sq. mt. w.e.f. 25.03.1988, taking it to be the basis or as a best exemplar, the compensation for the acquired land can easily be determined by giving advantage of Rs.10/- per sq. mt. of enhancement on account of rising prices and then applying deduction of (40% + 10%) 50% on account of development and largeness in area. Thus, the market rate of the acquired land to our mind turns out to be (Rs.190/- reduced to half) Rs.95/- per sq. mt. Accordingly, the appellants are entitled to compensation of Rs.95/- per sq. mt. for their acquired land in place of Rs.30/- per sq. mt. awarded by the Reference Court.

15. In context with the second submission that the courts below have not considered the income derived from the fruit bearing trees existing on the land, we find that no evidence worth the purpose was produced by the appellants to show the yield of the fruits per year or the amount of sale consideration realised from the sale of such fruits. The appellants have simply relied upon the reports

of the APMC Anand *(Exhibit 104)* which simply demonstrate the existence of lemon trees (big and small) aged between 5 to 10 years, a few mango trees and some guava trees. However, these reports do not in any way indicate the income derived from these trees. In the absence of any documentary evidence showing the annual income earned by them from selling the fruits of the trees, we do not deem it proper to award anything further for the trees. The SLAO under his award has offered a sum of Rs.1,06,300/- as the price of the trees and we leave the compensation with respect to the trees or the income derived from the trees at that only.

16. The case law cited by the parties is not relevant and material as the determination of compensation is on facts and evidence on the settled principles of law.

17. Accordingly, the judgment and order dated 14.08.2015 is set aside and the award of the SLAO dated 25.02.1992 and that of the Reference Court dated 31.12.2011 is modified by fixing the compensation of the acquired land @ Rs.95/- per sq. mt. with all statutory benefits including interest as permissible in law.

18. The civil appeal is allowed to the aforesaid extent.

19. Pending applications, if any, stand disposed of.

..... J.
(PANKAJ MITHAL)

..... J.
(S.V.N. BHATTI)

NEW DELHI;
MARCH 25, 2025