

Anil Kumar Shukla Vs. Executive Engineer Narmda Development Di

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Court : Madhya Pradesh

Decided On : Apr-04-2013

Appellant : Anil Kumar Shukla

Respondent : Executive Engineer Narmda Development Di

Judgement :

HIGH COURT OF MADHYA PRADESH AT JABALPUR First Appeal No.217/2007
Anil Kumar Shukla and others..Appellants Versus Executive Engineer, Narmada
Development Division No.8, Sihora, District Jabalpur, and another....Respondents
For the appellants : Shri D. K. Sharma, Advocate. For the respondents: Smt. D. K.
Bohre, Government Advocate. ***** Present: HONOURABLE SHRI JUSTICE
AJIT SINGH HONOURABLE SHRI JUSTICE M. K. MUDGAL *****

JUDGMENT

(4.4.2013) The following judgment of the Court was delivered by : Ajit Singh,
J.This appeal, by the land owners, has been filed against the award dated
9.1.2007 passed by the Reference Court Fourth Additional District Judge,
Jabalpur, in Land Acquisition Case No.3/2005.

2. The facts in short are these. Notification under section 4(1) of the Land
Acquisition Act, 1894 (in short, the Act.) for acquisition of 10.877 hectares of
agricultural land was published in the official gazette dated 5.11.2004. Thereafter,
notification under section 6 was published on 7.12.2004. The awards were passed
on 2.1.2005 and 8.6.2006. The Land Acquisition Officer had called for the sale

deeds from the office of Registrar of Documents. He received as many as 44 sale deeds which were executed within a period of one year from the date of notification published under section 4(1) and were in respect of land situated near the acquired land. The Land Acquisition Officer, after considering the sale deeds, vide award dated 2.1.2005 awarded compensation at the rate of Rs.1,51,714/- per 2 hectare and later vide award dated 8.6.2006 awarded compensation at the rate of Rs.1,80,662/- per hectare.

3. The appellants, whose land had been acquired, filed references under section 18 of the Act. Before the Reference Court it was proved by them that the land acquired was irrigated and yielded two crops every year. They, however, relying upon the guidelines, Exs.P6 and P10, issued for the purposes of collection of stamp duty by the registering authority, prayed for enhancement of compensation at the rate mentioned therein for irrigated land. According to Ex.P6 for the period between 2004-2005 irrigated land was valued for the purposes of stamp duty at the rate of Rs.4,15,550/- per hectare. Likewise, Ex.P10 reveals that in 2006 similar valuation for the irrigated land was done at the rate of Rs.5,18,500/- per hectare. But the Reference Court, relying upon the decision of the Supreme Court in *Krishi Utpadan Mandi Samiti, Sahaswan, District Badaun v. Bipin Kumar* (2004) 2 SCC 283, did not agree with the appellants for enhancement of award on the basis of Exs.P6 and P10. The appellants also sought enhancement on the basis of sale deed dated 8.10.2004, Ex.P26, but since the sale deed was in respect of small piece of land (.10 hectare) situated on the main road, the Reference Court held that it cannot form the basis to assess the market value of large area of land acquired.

4. After hearing the learned counsel for appellants and respondents, we are of the firm view that the appeal has no merit and deserves to be dismissed. In the case of *Krishi Utpadan Mandi Samiti (supra)* the Supreme Court, relying upon its earlier decision in *Jawajee Nagnatham v. Revenue Divisional Officer* (1994) 4 SCC 59, has clearly held that market value under section 23 of the Land Acquisition Act cannot be fixed on the basis of value of land assessed by the registering authority for the purposes of collection of stamp duty. Therefore, the Reference Court has rightly not placed reliance on the values of land fixed by the registering authority

vide Exs.P6 and P10 for stamp duty purposes. We are also in complete agreement with the Reference Court for not relying on the sale deed, Ex.P26, to assess the value of land acquired because the land sold was of a very small area and it adjoined the main road. Also no evidence has been led by the appellants to establish that the land acquired was near to the land sold. The Reference Court in paragraph 20 of the impugned award has given a specific finding that appellants namely Draupdi Bai wife of Teji Lal, Fagua son of Gajaiya and Chhotelal son of Gajaiya, had sold their agricultural land situated near the acquired land on different dates in the year 2004 by registered sale deeds and they did not produce the sale deeds. This finding has not been challenged by the appellants in the present appeal. It is, thus, apparent that the appellants did not file their own sale deeds to show at what rate they had sold the similarly situated land which would have furnished best material. Therefore, it can safely be inferred that the rate assessed by the Land Acquisition Officer for awarding compensation of the acquired land is legal and proper. Further, the awards dated 2.1.2005 and 8.6.2006 passed by the Land Acquisition Officer confirm that the amount payable to the appellants as required under section (1A) and 23(2) of the Act has been duly paid to them.

5. For these reasons, the appeal fails and is dismissed. (AJIT SINGH) (M. K. MUDGAL) JUDGE JUDGE ps

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