State of Rajasthan and ors. Vs. Baldeo Singh and 20 ors.

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Court : Rajasthan

Decided On : Jul-22-1987

Reported in : 1988WLN(UC)37

Judge : M.C. Jain, J.

Appeal No. : S.B. Civil Revision Petitions No. 255 to 268, 495 to 497 and 499, 500, 490 and 498 of 1983

Appellant : State of Rajasthan and ors.

Respondent : Baldeo Singh and 20 ors.

Advocate for Def. : Mr. L.R. Mehta

Disposition : Petition dismissed

Judgement :

M.C. Jain, J.

1. The above revision petitions arise out of the order dated 9-2-1983 passed by the District Judge, Jodhpur, whereby, the learned District Judge allowed the appeals of the claimants under Section 54 of the Rajasthan Urban Improvement Trust Act, 1958 (hereinafter referred to as 'the Act') and awarded compensation at rate of Rs. 5.50 per sq.ft. and further ordered to pay interest at rate of 6 percent per annum with effect from 10-10-1974 upto the date of the payment of the

compensation modifying the Award passed by the Additional Collector, Jodhpur, who determined the compensation at rate of Rs. 150 per sq.ft. by his Award dated 18-4-1980.

2. The land of claimants was acquired under Section 52 of the Act and proceedings were initiated by the Additional Collector, Jodhpur. The claimants filed their claims, which were tried by the Additional Collector, Jodhpur. The Collector proceeded to determine the amount of compensation considering that the land is undeveloped land and land acquired is a large chunk or tract. He relied upon the bid-sheet (Ex.A/3) in which the bidders gave the bid at rate of Rs. 8.25 to Rs. 14.25 per Sq.fts. and further considered that the sale deeds which have been produced by the claimants are of developed areas, in which, roads have already been constructed. So on consideration of the above material, determined the amount of compensation at rate of Rs. 1.50 per sq.ft. or Rs. 13.50 per sq.yds. Solatium was refused to the claimants on the ground that there was no provision for payment of solatium under the Act. Dissatisfied with his Award passed by the Additional Collector, the claimants prefered appeals before the learned District Judge, who by his impugned order revised and modified the Award as stated above. Aggrieved against this order of the learned District Judge, the above revision petitions have been filed.

3. I have heard Shri H.N. Calla, learned Counsel for the State and the UIT in revision petitions filed by them and Shri L.R. Mehta assisted by Shri D. K. Parihar, learned Counsel for the claimants.

4. First of all, I proceed to take the revision petitions filed by the State as well as by the UIT.

5. Mr. H.N. Calla, learned Counsel for the State and the UIT has submitted that the learned District Judge, while determining the amount of compensation ignored the guide-lines and the considerations provided under Section 53(6) of the Act and took note of irrelevant considerations beyond the scope of Section 53(6) of the Act. Besides that, these material aspects have also been ignored by the learned District Judge that the land in question is an undeveloped land and that, the market value of the land in question should have been reasonably reduced taking

into account the glaring fact that the land in question is a large chunk consisting of about 66000 Sq.Yds. and the learned District Judge adopted a strange method of finding out the means from the various rates of the sale-deeds produced by the claimants. He submitted that in a case of such a nature where considerations extraneous to Section 53(6) have been taken into account and consideration of the factors mentioned in Section 53(6) of the Act have not been taken note of, this Court has set aside the order of the District Judge and has sent the matter back for determination of the amount of compensation in accordance with law i.e. in accordance with the guide-lines provided under Section 53(6) of the Act. Reliance was placed by him on a decision of this Court in Gokul Narain v. State of Rajasthan 1983 RLW 466.

6. Mr. L.R. Mehta, learned Counsel for the respondent-claimants, on the other hand, submitted that a bare perusal of the order of the District Judge would reveal that the learned District Judge was alive to the provision contained in Section 53(6) of the Act and has dealt with the question as to how the compensation has to be determined in accordance with the principles and guide-lines provided therein. He rightly took into account the documentary and oral evidence on record and after consideration of the entire material and evidence on record, tried to determine the amount of compensation. He took into account the deeds to find out the amount of the sale price at which the lands have been sold in the vicinity at the relevant time. On the basis of the rate in the contemporaeous documents, the market value of the land in question was determined at rate of Rs. 5.50 per sq.ft. He urged that the assessment orders made under the Rajasthan Land and Buildings Tax Act, and the assessment orders made under the Wealth Tax Act, have been considered as pieces of evidence by the learned District Judge and the method of mean has been adopted considering that the land, which has been acquired is a large chunk of land and in that manner, value of the land has been arrived. The learned District Judge has also taken into consideration how the land was cleared and also the location and the site of the land in question. He vehemently urged that what should be the market value of the land under Section 53(6) of the Act is a question of fact on which opinions may differ having regard to the considerations as are laid down in law. Such a finding arrived at after taking into account the relevant considerations is not liable to be interfered with in the

exercise of the revisional jurisdiction of this Court.

7. I have given my anxious consideration to the contentions advanced before me by the learned Counsel for the parties. The learned District Judge in his impugned order has dealt with the points involved in the cases elaborately and has referred to the oral and documentary evidence and the relevant law. Section 53(6) of the Act reads as under:

53(6) In determining the amount of compensation, the Collector shall be guided by the following principles, namely:

(a) no allowance shall be made on account of the acquisition being compulsory;

(b) the value of the land shall be taken to the market value of the land on the date on which the notice calling upon the owner to show cause why the land should not be acquired is issued under Sub-section (2) of Section 52 hereinafter to as 'the date of notice' such market value being determined on the basis of the use of the land on that late;

(c) the special suitability or adaptablity of the land for any purpose shall not be taken into account if that purpose to which it would be applied only in pursuance of statutory powers, or for which there is not market apart from the special needs of a particular purchaser or the requirements of any department of Government or any local or public authority;

(d) where the value of the land is increased by reason of the use there of or of any premises thereon in a manner which could be restrained by any Court, or is contrary to law or is detrimental to the health of the inmates of the premises or to public health the amount of that increase shall not be taken into account.

8. The market value has to be determined on the basis of the use of the land on the relevant date. The potential value is not to be taken into account. Some use is prohibited in Clause (d). With regard to that use, the value is not to be taken into account. The learned District Judge has dealt with the documents of both the parties at pages 31 and 32 of the order. The sale deeds produced by the claimants related to the Ratanada area,Raika-Bagh area, Old Police-line Area Jaswant

College and the Residency. These localities are in the vicinity of the land in question. In the sale-deeds produced by the claimants, the price ranges from Rs. 3.30 to Rs. 9.88 per sq.ft from 1973 to 1975. Individual sale-deed giving different rates have been taken note of by the learned District Judge and he has further referred the assessment orders of the claimants Ex. N.A.W. 3/1 to 325 by the Assistant Director, Land and Buildings Tax Department, in which the value of the land has been determined at Rs. 5/- per sq. ft. on 14-1976. The Wealth Tax Authority also assessed the value of the land from Rs. 18/- per Sq. Yard to Rs. 36/-per Sq. Yds. from 1968 to 1974. That was, in relation to the land of Maharaja Ajit Singh's Bungalow, which adjoins to the lard in question. The learned District Judge also referred to the sale-deeds by the State Government and by the U.I.T. executed in favour of Ram Singh Bhati at Rs. 5/- rer sq.ft. in 1970 and 1971. 2130 Sq. ft. land was sold at the said rate by the U.I.T. to Ram Singh Bhati. It would appear from the perusal of the order that for arriving at the market value of the land in question, the learned District Judge took into consideration the sale-deeds produced by the claimants and also the assessment orders of the Assessing Authority under the Lands and Buildings Tax Act and under the Wealth Tax Act and also the sale-deeds executed by the State Government and the U.I.T. The order of the learned District Judge is not solely based on the assessment orders by the authorities under the aforesaid laws and that are simple pieces of evidence in the present case, which could not be ignored by the learned District Judge as they are relevant under Section 4 of the Rajasthan Lands and Buildings Tax Act, 1964. What is provided in Section 4 is that for the purpose of the Act, the market value of the land or building or both shall be estimated to be the price which is in the opinion of the Assessing Authority, such land or Building or both would have fetched if sold in the open market on the date of commencement of the Rajasthan Urban Land Tax (Amendment) Act, 1973. It would appear that under Section 4, the Assessing Authority is required to estimate the price on the basis what the property would fetch if so sold in the open market meaning thereby what would be the price which a willing seller and a willing purchaser would agree to, according to the assessing authority. Thus, the value of the land determined under Section 4 would be relevant. The order of the District Judge has to be read in the light of Section 4 of the Rajasthan Lands and Buildings Tax Act, 1964 and if so read, it would be evident that the learned District Judge has proceeded to determine the value of the land having regard to the market value of the land on the relevant date. It cannot therefore, be said that the assessment orders under the Rajasthan Lands and Buildings Tax Act are not relevant. It may be stated that while determining the market-value, having regard to the use of the land on the relevant date, an over all view has to be taken and market value cannot be arrived at with any mathematical accuracy. A fair and reasonable estimate has to be made on the basis of all relevant considerations. it is true that the land in question, is an open vast land but even for such a land the method for arriving at its value would be what a willing purchaser would pay to a willing seller having regard to the use of the land on the relevant date. If this guiding principle is taken into account then the documents which have been produced by the claimants would all be very material as they throw light about the rate at which the lands have been sold in the vicinity although these documents pertain or relate to comparatively smaller plots in size but the lands have been sold at a considerable higher rate as well taking higher rate into account the learned District Judge has adopted the method of mean and thereby reducing the price. The learned District Judge did consider the nature of the land as to whether developed or undeveloped and its size despite that an over all view has been taken by the learned District Judge while determining the market value. The bid-sheet produced by the U.I.T. regarding the sale of the land by auction would not in any way clinch the issue. The sale is said to be lease hold. On the basis of the bid sheet alone the other evidence and materials cannot be ignored.

9. It is pertinent to note that the matter has come up before this Court in its revisional jurisdiction and the scope of the revision under Section 115, CPC is very narrow. No order is liable to be interfered within the exercise of the revisional jurisdiction unless there is any illegality or material irregularity in the exercise of the jurisdiction by the subordinate court. There does not appear to be any illegality or material irregularity committed in the exercise of jurisdiction by the learned District Judge while hearing the appeal and so the order of the learned District Judge in my opinion is not liable to be interfered with in the exercise of revisional jurisdiction. What is the market value of a particular piece of land having regard to the nature of the use of the land on the relevant day is a question of fact which has

to be determined on the basis of the entire evidence available on record and all relevant considerations have to be gone into for arriving at the market value. In my opinion the learned District Judge did not consider the entire material for arriving at the market value of the land in question.

10. So far as the decision rendered in Gokul Narain's case is concerned, it may be stated that it appears that in that case the relevant guidelines did not go into consideration of the learned District Judge and the learned District Judge did not consider the material and evidence on record. He arrived at the market value on the basis of private negotiations in the locality so it appears that this court thought it proper to interfere with the order of the learned District Judge and remanded the case back to the District Judge to re-decide the appeals in accordance with the law. But so far as the present case is concerned, all available material has been considered in the light of the provisions contained in Section 53(6) of the Act and it cannot be said that the learned District Judge committed any illegality or material irregularity in the exercise of jurisdiction. Thus, the revision petitions filed by the State as well as the U.I.T. deserve to be dismissed.

11. The claimants have also preferred revision-petitions in which they have prayed for enhancement of interest and for award of compensation on the basis of solatium. It may be mentioned that solatium is no ground for awarding compensation under the Act. The solatium has been rightly refused. As regards the interest, the learned District Judge has awarded interest.@6% from the relevant date till the date of payment. Award of interest at a particular rate is discretionary which, in my opinion, cannot be interfered within revision. So the revision petitions filed by the claimants also deserve to be dismissed.

12. Accordingly, all the aforesaid revision-petitions are here by dismissed. Parties shall bear their own costs.