

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

First Appeal No.301 of 2000

Judgment Reserved on : 11.8.2017

Judgment Delivered on : 6.10.2017

1. Kulbir Singh, S/o Hawa Singh,
 2. Dharam Singh, S/o Arjun Singh,
- Both residents of Bilaspur Road, Ambikapur, District Surguja (MP)
(now Chhattisgarh)

---- Appellants

versus

1. The State of Madhya Pradesh (now Chhattisgarh) through Collector, Raipur
2. Executive Engineer, Madhya Pradesh Grih Nirman Mandal, Shanker Nagar, Raipur

--- Respondents

For Appellants	:	Shri Vivek Tripathi, Advocate
For Respondents/State	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

1. This appeal under Section 54 of the Land Acquisition Act, 1894 (henceforth 'the Act of 1894') has been preferred for enhancement of the award dated 20.10.1999 passed in Land-Acquisition Case (M.J.C.) No.11 of 1997 by the 6th Additional District Judge, Raipur (Reference Court).
2. Brief facts of the case are as follows:
 - (i) For the purpose of construction of residential houses for Madhya Pradesh Grih Nirman Mandal, land of the Appellants bearing Khasra No.606/2 and 606/3 measuring area 0.036

hectares situated at Village Sondongri, Raipur was proposed to be acquired and for that purpose necessary proposal under Section 17(1) of the Act of 1894 was made. After consultation with the State Government, a notification under Sections 4(1), 17(1) and 6 of the Act of 1894 was issued and published in Madhya Pradesh Rajpatra Part One Page No.1502 dated 25.5.1990 and accordingly a notification under Section 6 of the Act of 1894 was issued. After hearing the parties, an award was passed under Section 23(1) and Section 11A of the Act of 1894 on 5.8.1991 and a sum of Rs.43,930/- per acre was awarded in favour of the Appellants.

(ii) Being dissatisfied with the said award of the Land Acquisition Officer, the Appellants sought reference under Section 18 of the Act of 1894 by making an application before the Land Acquisition Officer. The reference was registered.

(iii) Having registered the said reference as Land-Acquisition Case (M.J.C.) No.11 of 1997, the 6th Additional District Judge, Raipur, i.e., the Reference Court proceeded to record evidence of the parties and after hearing the parties, on the ground that the land was purchased in the year 1989 for a sale consideration of Rs.58,800/- and the proceeding of land acquisition began a year later in 1990, vide the impugned award dated 20.10.1999, awarded a compensation of Rs.58,800/- (purchase price) in favour of the Appellants. Besides this, the Reference Court also awarded 30% solatium thereon and interest @ 12% from the date of notification under Section 4(1) of the Act of 1894.

3. Learned Counsel appearing for the Appellants pleaded that the land acquired is suitable for residential use, compensation is liable

to be given at the rate of Rs.10/- per square foot, but the Reference Court did not award the compensation according to the market value of the land. It was further argued that although the notification under Section 4(1) of the Act of 1894 was issued on 25.5.1990 yet the acquired land was not used till the year 1996. Therefore, for awarding compensation, market value of the land prevailing in the year 1996 should have been assessed.

4. Learned Counsel appearing for the State/Respondents supported the impugned award.
5. I have heard Learned Counsel appearing for the parties at length and also perused the entire record minutely.
6. In **Shree Vijay Cotton & Oil Mills Ltd. v. State of Gujarat, (1991) 1 SCC 262**, it was held in paragraph 13 of the judgment that there is no dispute that under the Act of 1894 the claimant is entitled to a compensation at the rate of market value of the land on the date of notification under Section 4 of the Act of 1894.
7. In **Manipur Tea Co. Pvt. Ltd. v. Collector of Hailakandi, AIR 1997 SC 1779**, it has been further observed that while determining compensation under the Act of 1894 what is required to be determined is the prevailing market value of the land as on the date of notification under Section 4(1) of the Act of 1894.
8. In the light of above, in the instant case, market value of the land as on 25.5.1990, i.e., on the date of notification under Section 4(1) of the Act of 1894 is to be assessed.

9. The Supreme Court, in **Mohammad Raofuddin v. Land Acquisition Officer, (2009) 14 SCC 367**, has held in paragraph 10 that one of the principles for determination of the market value of the acquired land would be the price an interested buyer would be willing to pay if it is sold in the open market at the time of issue of a notification under Section 4 of the Act of 1894. But, finding direct evidence in this behalf is not an easy exercise and, therefore, the Court has to take recourse to other known methods for arriving at the market value of the land acquired. In **Mohammad Raofuddin case** (supra), while referring to a decision in **Viluben Jhalejar Contractor v. State of Gujarat, (2005) 4 SCC 789**, the Supreme Court observed as under:

“18. One of the principles for determination of the amount of compensation for acquisition of land would be the willingness of an informed buyer to offer the price therefor. It is beyond any cavil that the price of the land which a willing and informed buyer would offer would be different in the cases where the owner is in possession and enjoyment of the property and in the cases where he is not.”

10. The Land Acquisition Officer assessed the market value of the acquired land @ Rs.1.10 per square foot, but it was enhanced by the Reference Court on the ground that on 23.9.1989 the land was purchased at total price of Rs.58,800/-, i.e., @ Rs.2.75 per square foot.
11. It was argued by Learned Counsel appearing for the Appellants that the market value of the acquired land was Rs.10/- per square foot at the relevant time, but the Appellants have failed to file any sale-deed as an exemplar in which the land was sold @ Rs.10/- per square foot. It is also mentioned in paragraph 20 of the

impugned award that relying upon the case of **Gopal Das v. Collector of Varanasi, AIR 1977 SC 901**, it was argued by the Appellants that the compensation should be awarded to them at the rate on which they had purchased the land. On that ground, the Reference Court awarded the compensation.

- 12.** In the premises of aforesaid, I do not find any merit in this appeal. Consequently, the appeal is dismissed. No costs.

Sd/-
(**Arvind Singh Chandel**)
JUDGE