

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 25-8-2017

Judgment delivered on 13-9-2017

FA No. 59 of 2002

- State of Chhattisgarh through Land Acquisition Officer, Raigarh (CG).

---- Appellant.

Versus

1. Satyanarayan .
2. Doctor
3. Rajendra Prasad
4. Laxmi Narayan
5. Gaurishankar
6. Vijay Kumar

(Sl. No. 1 to 6 all are sons of Amar Singh, r/o. Village Madanpur, Tehsil Kharasia, District Raigarh (CG).

---- Respondents

For appellant/State.	:	Mr. Adhiraj Surana, Dy.G.A.
For respondents	:	Mr. Roop Naik, Advocate.

SB: Hon'ble Shri Justice Ram Prasanna Sharma

CAV JUDGMENT

1. This is an appeal under Section 54 of the Land Acquisition Act, 1894 (for short, "the Act") against the award dated 29-11-2001 passed in Misc. Civil Case No. 9 of 1993 by the Reference Court (First Additional District Judge, Civil District Raigarh) awarded compensation of Rs.98,687.50 for land acquired from the respondents by the appellant for construction of bridge road, Upendra Nagar Colony, Raigarh.

2. The facts of the case. In brief, are that the land bearing Survey No.62 area 0.150 hectare and part of Khasra No. 52/1 area 0.170 hectare situated at village Madanpur, Patwari Halka No.06, Tehsil Kharasia, District Raigarh (CG) have been acquired by the State Government for construction of approach road of Upendra Nagar colony Raigarh. On 9-7-1992 Collector (Land Acquisition Officer, Raigarh) passed award of Rs.47,592/- for acquiring the land against the said award. The respondents have filed an application under Section 18 of the Act before the Collector, Raigarh, objected the amount of compensation and requested to refer the matter to the reference Court. On the basis of said application, Collector, Raigarh referred the matter to District Judge, Raigarh. Objection was raised by the respondents in regard to the market value of the land and it is pleaded that acquired land is situated at main road and in the National High Way, Raigarh within the Municipal Limit of Raigarh and the market value of the land is Rs.20,000/- per decimal and the same was denied by the appellant stating that according to market value, the land has been acquired @ Rs1,05,000/- per hectare. The reference court enhanced award from Rs. 47,592/- to Rs.98,687.50 with 30% solatium with 9% interest per annum till the payment is made.
3. Learned counsel appearing for the appellant/State submits that the reference court has wrongly assessed the market value of the land on the basis of sale deed dated 21-9-1990. The said deed is not relevant for consideration of market value of the acquired land. The market value has to be determined as on crucial date of

publication of notification under Section 4 of the Act and value of the property should be ascertained for which the willing vendor might reasonably expect to obtain from the willing purchaser. The sale price of small plot of land cannot be considered to assess the market value of the land covering a large area, therefore, the award passed by the Reference Court is liable to be set aside.

4. On the other hand, learned counsel for the respondent submits that the award passed by the reference court does not call for any interference in this appeal.
5. Heard learned counsel for both the parties and perused the record of the reference Court.
6. It is admitted that notification for acquiring the land in question was issued on 9-7-1992. It is settled law that the compensation to be determined on the basis of market value of property on the date of acquisition and for that where sale transaction concerning to nearby land or of same land is available, there would be no reason to rely upon calculation of other method.
7. The land acquisition officer made valuation on the basis of average market value of the land, but the same is not based on sale instances in respect of similar land in same area at relevant time and basis of assessment is mentioned to be average market value but it does not clear as to how many sale instances of similar land have been taken on account while fixing the market value.
8. On the other hand, respondents have filed sale deed of same survey number i.e., Survey No. 62 and area measuring 0.016

hectares of the same land was sold for Rs.21,000/- on 21-9-1990 i.e., prior to the acquiring the land. Respondents adduced oral evidence of Satyanarayana AW/1, Rajendra Kumar AW/2 and Vijay Kumar AW/3 and submitted sale deeds vide Ex.A/1, C and A/2-C of adjoining land and reference court after marshalling oral and documentary evidence adduced by the respondents came to the conclusion that on the basis of sale deeds, market value of the land acquired is Rs. 98,687.50

9. It is contended on behalf of the appellant that assessment of market value of the acquired land on the basis of sale deed dated 21-9-1990 is not relevant because it is not the value of the land on crucial date of the acquisition of land. In view of this Court, the argument advanced by the appellant is without substance. Sale deed produced before the reference Court dated 21-9-1990 was the sale deed of the same land i.e., survey No.62 and that land measuring 0.016 hectare was sold for Rs.21,000/- prior to acquiring of land, therefore, the value of the land cannot be assessed less than that price as the land was acquired in the year 1992 and sale deed was of the year 1990, again the said sale deed produced before the reference court by the respondents were also taken into consideration before assessing the value of the acquired land and on the basis of sale deed of same survey number and adjoining survey number, the reference court enhanced the compensation as mentioned above and that cannot be faulted with. It cannot be said that the reference court has not awarded fair value of the market property.

10. It is contended on behalf of the appellant that value for small plot cannot be applied to the land covering a large area. In view of this Court, sale deed produced before the trial Court for the land measuring number 0.016 hectare and acquired land is 0.150 and 0.170 hectare which is not covering the large area, but the acquired land is also small plot of the land and there is parity between the land acquired and land of sale deeds produced before the trial Court and the same was in the fitness of procedure.
11. It is contended on behalf of the appellant that the respondents have accepted the awarded amount without any objection and they have no right to challenge the award. In view of this court, argument advanced by the appellant is without substance.
12. From perusal of the record, it is clear that on 20-7-1990 the respondents have protested against award of Land Acquisition Officer and thereafter they have filed an application under Section 18 of the Act for reference to Court as the awarded amount is very less. From their application, it is clear that they have protested the award of Land Acquisition Officer and that is why they have filed an application before the Land Acquisition Officer for reference and on the basis of that application, the matter was referred to the Court. It cannot be said that the awarded amount was received without protest and argument is not sustainable. A reference under Section 18 of the Act, is not an appeal against the award and the reference Court has to start the original proceeding before it for determining the market value

afresh on the basis of material produced before it. It was not the function of the reference court to disapprove the reasoning of the Land Acquisition Officer and when it was protested by the respondents before the reference Court that the award is inadequate on the basis of material produced in the Court, the reference court was right in assessing the market value on the basis of sale deed produced before the Court and this Court see no reason to interfere with the award passed by the reference Court. Arguments advanced against award of the reference court are not sustainable and the appeal deserves to be dismissed.

13. For the foregoing, the appeal is liable to be and is hereby dismissed with cost.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju