

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Judgment reserved on 12-03-2019**

**Judgment delivered on 11-04-2019**

**FIRST APPEAL No. 81 of 2005**

1. Vind Kumar s/o. Late Shri Umraomal Agrawal, aged about 45 years, r/o. Dhurkot, Teh Dhabra, Dist. Janjgir-Champa (CG).
2. Sanjay Kumar s/o. Late Shri Umraomal Agrawal, aged about 41 years r/o. Dhurkot, Teh. Dhabhra, Dist. Janjgir-Champa (CG).

**---- Appellants.**

**Versus**

1. State of Chhattisgarh through Collector, Dist. Janjgir-Champa (CG).
2. Land Acquisition Officer, Hasdeo Pariyojna, Branch Sakti Dist. Janjgir Champa (CG).

**– Respondents.**

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For appellants : Mr. Yash Mourya, Advocate

For respondents/State : Mr. A.N. Bhakta, Dy. Advocate General  
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**SB: Hon'ble Shri Justice Ram Prasanna Sharma**

**CAV JUDGMENT**

1) This appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against the judgment/decreed dated 16—10-2004 passed by the Additional District Judge, Sakti, Civil Dist. Bilaspur (CG) in Miscellaneous Civil Suit (land acquisition) No. 26 of 2004 wherein the said court awarded a sum of Rs.20,458.72 (Rupees twenty thousand four hundred fifty eight and seventy two paisa) for

acquisition of land bearing survey No. 131/1 and 131.3 area 0.17 decimal each situated at village Dhurkot Patwari Halka No. 3, Tahsil Sakti, District Janjgir Champa (CG). .

2) Admittedly, the land in question is owned by the appellants and is acquired by respondent No.2 under the Land Acquisition Act, 1894 and the Land Acquisition Officer awarded a sum of Rs.14,269/- for 0.17 decimal of land and a reference was made to the court of Additional District Judge, Sakti which enhanced the amount by Rs.20,458.72.

3) Learned counsel for the appellants would submit that the amount awarded by the court below is on lower side and looking to the value of adjacent land, it ought to have been compensated to the tune of Rs.1,15,000/-.

4) *Per contra*, learned counsel for the State would submit that the finding of the trial court is based on proper marshalling of the evidence which does not call for any interference by this court while invoking jurisdiction of the appeal.

5) I have heard learned counsel for the parties and perused the record in which judgment and decree has been passed.

6) Now the point for determination of this court is whether the value fixed by the Additional District Judge, Sakti is fair market value. In the very nature of things, the price/value from land to land depends upon buyer to buyer, seller to seller and the reasons

which led such sale. Everything should be in permissive parameter. The fair market value of the acquired land is required to be determined on the basis of market rate of adjacent land similarly situated to the acquired land prevailing on the date of acquisition and/or prior to the acquisition but not subsequent to the date of acquisition.

7. In appropriate cases, some addition is allowed looking to the escalation in the prize specified in the sale deed in relation to adjacent similarly situated lands for fixing the market value of the acquired land.

8. In the present case, one sale deed was filed by the appellants (Ex.P/13) which is regarding sale of 0.08 decimal of land sold for Rs.12,000/-, but it is not clear as to whether the said land is of same quality and whether it is adjacent to the land in question, therefore, the said sale deed is not comparable for the land in question. The Land Acquisition Officer determined the value on the basis that the land in question is unirrigated land and looking to the market value, the standard rate is Rs.1,57,500/- per hectare. The reference court opined that the land in question is adjoining to land which is used for residential purpose, therefore, enhanced 50% looking to the escalation in price of land every year. There is nothing on record that value of land is increased about five times as claimed by the appellants. Therefore, this court cannot arrive at

conclusion that value of land is increased five times. The reference court has already exercised the discretion in increasing the award amount. After appreciating all the evidence, this court has no reason to increase the award again as per memo of appeal.

9) As a fallout and consequence of the aforesaid discussion, the appeal is held to be devoid of merit and same is liable to be dismissed. Accordingly, decree is passed in favour of respondents and against the appellants as under:

- (i) The appeal is dismissed with cost.
- (ii) Parties to bear their own costs.
- (iii) Pleader's fee., if certified, be calculated as per Schedule or as per certificate whichever is less.
- (iv) A decree be drawn up accordingly.

Sd/-

**(Ram Prasanna Sharma)**  
JUDGE

Raju