

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2562 OF 2019
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 14973 OF 2010)

U.P.AVAS EVAM VIKAS PARISHAD ...APPELLANT(S)

VERSUS

GANGA SARAN (DEAD) THR. LRS. AND ORS. ...RESPONDENT(S)

WITH

CIVIL APPEAL NO. 2563 OF 2019
(@ SPECIAL LEAVE PETITION (C)NO. 36884 OF 2016)

CIVIL APPEAL NO. 2565 OF 2019
(@ SPECIAL LEAVE PETITION (C)NO. 38758 OF 2016)

CIVIL APPEAL NO. 2564 OF 2019
(@ SPECIAL LEAVE PETITION (C)NO. 38361 OF 2016)

J U D G M E N T

R. Subhash Reddy, J.

1. Leave granted.

2. All these appeals arise out of the Notification issued under Section 4 (1) of the Land Acquisition Act, 1894 on 29.9.1979. They are all heard together and being disposed of by this order. For the purpose of disposal we have referred to the facts which arise in the Civil Appeal arising out Special Leave Petition (Civil) No.14973 of 2010.

3. The land of the respondents-claimants admeasuring 2-13-0 of Khasra No.174 and 0-17-0 of Khasra No.175 situated in Tanda, Bulandshshar, was acquired under the provisions of the Land Acquisition Act,1894 for the purpose of implementation of the

housing scheme under the provisions of Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965. As per the provisions of the said Act, land which is required for the purpose of housing scheme can be acquired under the provisions of the Land Acquisition Act, 1894. The Notification was issued on 29.9.1979 and declaration was issued on 20.12.1980. The Land Acquisition Officer, after conducting necessary inquiry, has passed Award on 11.10.1984. The Land Acquisition Officer in his Award fixed the compensation for the acquired land @ Rs.29.08 per sq. yard. As the respondents-claimants were not satisfied with the market value fixed, they sought reference under Section 18 of the Land Acquisition Act to the Civil Court. The Reference was made to the court of the District Judge, Bulandshehar and same was numbered as L.A.R. No.128 of 1987. The District Court, on reference made under Section 18 of the Land Acquisition Act, 1894 has answered the same by judgment dated 19.12.1994. The Reference Court has enhanced the compensation by fixing market value at Rs.99/- per sq. yard and also ordered for payment of statutory benefits.

4. Aggrieved by the judgment of the Reference Court dated 19.12.1994 passed in L.A.R. No.128 of 1987 Uttar Pradesh Avas Evam Vikas Parishad has preferred First Appeal No.354 of 1995, before the High Court of Judicature at Allahabad. By the impugned judgment dated 19.01.2010 the appeal filed by the appellant herein was dismissed. Being aggrieved, the appellant has preferred this appeal.

5. We have heard learned counsel for the appellant and learned

counsel appearing for the respondents-claimants at length.

6. The learned counsel for the appellant, by referring to the impugned judgment has submitted that though the appeal preferred before the High Court is First Appeal, the High Court has dismissed the same by the impugned judgment, without re-appreciating the evidence on record. It is submitted that on this ground impugned judgment is fit to be set aside. On the other hand, learned counsel for the respondents has submitted that the Notification under Section 4 (1) of the Land Acquisition Act, 1894 was issued as early as on 29.9.1979 and the respondents-claimants have not yet received the compensation which is fixed by the Reference Court, he requested to consider the judgment of the Reference Court and submitted that the fixation of market value for the acquired land @ Rs.99/- per sq. yard is just and reasonable. It is further submitted that though there is a documentary evidence on record by way of registered sale deeds, prior in point of time to the Notification issued under Section 4 (1) of the Land Acquisition Act, 1894 which show the market value of the acquired land at relevant time was around Rs.200/- per sq. yard, the Reference Court, fixed the market value for the acquired land at @ Rs. 99/- per sq. yard only. It is further submitted that in view of such documentary and oral evidence adduced before the Reference Court, there are no grounds to interfere with the impugned judgment.

7. Having heard learned counsel for the parties and we have also perused the order of the Reference Court and impugned

judgment of the High Court and other materials placed on record.

8. It is true that though the appeal preferred by the appellant before the High Court is the First Appeal, the High Court has dismissed the same without appreciating evidence on record. Instead of remitting matter back to the High Court for consideration of appeal, keeping in mind that the Notification under Section 4(1) of the Land Acquisition Act, 1894 was issued as early as on 29.9.1979, we have considered, the judgment of the Reference Court and the evidence adduced before the Reference Court by the respondents-claimants.

9. It is the case of the respondents-claimants that the land which was required for the purpose of housing scheme is within the municipal limits and near to residential and commercial buildings.

10. From the judgment of the Reference Court and other material placed on record, it is clear that S.L.A.O. has himself admitted that the acquired land is adjacent to Abadi and suitable for residential houses. Even spot inspection made by S.L.A.O. also revealed that residential and commercial buildings were in existence near the acquired land. Further the sale deeds referred in Sl.No.1 to 4 and 20, 21 and 89 reveal that the market value of the acquired land during the relevant time was varying from Rs.100 to Rs.200 per sq. yard. Though such sale deeds were prior to the Notification, the Land Acquisition Officer has omitted to consider the same on the ground that acquired land was 48

acres in total. Further it is also to be noted that sale deeds of comparable sales of small areas also can be considered by giving suitable deductions while fixing the market value. Documentary evidence produced before the Reference Court, reflects the market value of the acquired land, during the relevant time of issuing notification, under Section 4(1) of the Land Acquisition Act, 1894 which ranges from Rs.100 to Rs.200 per sq. yard. Considering the evidence in entirety the Reference Court has fixed the market value of the acquired land at Rs.99 per sq. yard. Having regard to evidence on record, before the Reference Court, fixation of market value of the acquired land at the rate of Rs.99 per sq. yard along with other statutory benefits cannot be said to be illegal. Market value fixed by the Reference Court at Rs.99/- per sq. yard is just, reasonable and represents the true market value, as on the date of Section 4(1) Notification. For the aforesaid reasons, we do not find any merit in the appeal and the same is accordingly dismissed.

Civil Appeals arising out of SLP(C) Nos.36884/2016,38758/2016 & No.38361/2016

In view of the order passed in Civil Appeal arising out of SLP(C) No.14973 of 2010, these appeals are also dismissed.

.....J.
[R. BANUMATHI]

NEW DELHI
26TH FEBRUARY, 2019

.....J.
[R. SUBHASH REDDY]