

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6092/2007

(From the judgement and order dated 14/12/2005 in FA No.3700/2004
of The HIGH COURT OF KARNATAKA AT BANGALORE)

BHIMASHA

Petitioner(s)

VERSUS

SPECIAL LAND ACQUISITION OFFICER & ANR.

Respondent(s)

(With appln(s) for c/delay in filing SLP)

Date: 31/07/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s) Mr. Akshat Shrivastava,Adv.
Mr. Yash Pal Dhingra,Adv.

For Respondent(s) Ms. Anitha Shenoy,Adv.

UPON hearing counsel the Court made the following
ORDER

Heard learned counsel appearing on behalf of the
parties.

Delay condoned.

Leave granted.

The civil appeal is allowed.

No costs.

[T.I. Rajput]
A.R.-cum-P.S.

[P.S. Tyagi]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4742 OF 2008
(Arising out of S.L.P. (C) No.6092 of 2007)

Bhimasha

...Appellant(s)

Versus

Special Land Acquisition Officer & Anr. ...Respondent(s)

O R D E R

Heard learned counsel appearing on behalf of the parties.
Delay condoned.
Leave granted.

The Land Acquisition Officer fixed the market value of the acquired land at the rate of Rs.13,100/- per acre for dry land and Rs.1,000/- for phot kharab land. On a reference made under Section 18 of the Land Acquisition Act, 1894, the Trial Court awarded compensation at the rate of Rs.36,200/- per acre. On appeal, the High Court referred to the yield notification and price list issued by the competent authority as also the average price of both the crops in relation to the relevant year and concluded that market price of the land comes to Rs.66,550/- per acre. However, the High Court refused to award compensation at the said rate on the premise that the appellant had claimed compensation at the rate of Rs.58,500/- per acre.

...2/-

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We have heard learned counsel for the parties and perused the record. In the impugned order the High Court, after taking note of the yield notification issued by the Government and price list notified by the competent authority for crops (both are public documents) concluded that market value of the land is Rs.66,550/- per acre. Therefore, the appellant's omission to make appropriate claim before the High Court after paying the requisite court fee cannot be castigated as one lacking bona fide. In our view, the High Court should have, after taking note of, the peculiar facts of the case and the market value determined by it, awarded higher compensation to the appellants subject to the condition of paying the balance court fee. This, having not been done, we feel that ends of justice could be met if the impugned order is suitably modified.

Accordingly, the appeal is allowed, impugned judgment is modified and the market value of the land fixed by the High Court is enhanced to Rs.66,550/- per acre. This order, however, will be subject to the payment of further amount of court fee to be assessed by the Registry of the High Court. After assessment, the Registry shall intimate the deficit amount of court fee to be payable by the appellant to his counsel, which shall be paid within two months from the date intimation is received by the counsel from the High Court.

No costs.

.....J.
[B.N. AGRAWAL]

.....J.
[HARJIT SINGH BEDI]

.....J.
[G.S. SINGHVI]

New Delhi,
July 31, 2008.