

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.9808/2003

VINOD BANSAL APPELLANT (S)

VERSUS

STATE OF HARYANA & ANR. RESPONDENT (S)
(With office report)

WITH C.A.Nos.9820, 9786, 9828, 9838, 9918, 9874, 9885, 9889, 9846,
9868, 9887, 9869, 9847, 9873, 9880, 9894, 9870, 9916, 9899, 9886,
9917, 9911, 10105, 10090, 9900, 10103, 9818, 9825, 9897, 9909,
9891-9893, 9888, 9792-9798, 9781, 9824, 9779, 9817, 9803, 9826,
9829, 9827, 9839, 9867, 9881, 9895-9896, 9864, 9831, 9799, 9802,
9823, 9901, 9787-9791, 9783-9784, 9806-9807, 9800-9801, 9836-9837,
9833-9834, 9882, 9842-9843, 9809-9810, 9835, 9815-9816, 9830,
9871-9872, 9813-9814, 9804-9805, 9883, 9866, 9811-9812, 9865, 9785,
9832, 9782, 3599 & 9840 of 2003 - (With office report)

C.A.No.9912/2003 - (With Appl.(s) for permission to place addl.
documents on record and with office report),

C.A.Nos.9821-9822/2003 - (With Appl.(s) for substitution of deceased
petitioner and with office report)

Date : 20/07/2004 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s)Mr. Aman Hingorani, Adv.
Ms. Priya Hingorani, Adv.
Ms. Reema Bhandari, Adv.
for M/s. Hingorani & Associates, Adv.

CA 9865Mr. Rajesh K. Sharma, Adv.
Ms. Shalu Sharma, Adv.

CA 9825Mr. Somvir Singh Deswal, Adv.
Mr. M.P. Shorawala, Adv.

CA 9787-91,9783-84,Mr. Dinesh Verma, Adv.
9806-7,9785 &Ms. Suresh Kumari, Adv.
9811-12for Mr. A.P. Mohanty, Adv.

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For Respondent (s) Mr. Vinay Kumar Garg, Adv.
State Mr. Anil Kumar Thakur, Adv.
Ms. Kavita Wadia, Adv.

HUDA Mr. Satinder S. Gulati, Adv.
for Dr. Kailash Chand, Adv.

Mr. B.K. Pal, Adv.
Mr. Manoj Swarup, Adv.

UPON hearing counsel the Court made the following
O R D E R

Mr. Aman Hingorani, learned counsel for the appellant resumed his arguments at 11.00 a.m. and continued till 11.20 a.m. Then, Mr. Somvir Singh, learned counsel for the appellant made his submissions for 10 minutes. Then, Mr. Vinay Kumar Garg, learned counsel for the State made his submissions from 11.30 a.m. to 11.45 a.m. Mr. Aman Hingorani made his submissions in reply for 10 minutes. Thereafter, Mr. Vinay Kumar Garg resumed his arguments and concluded at 12.30 p.m. After that, Mr. Aman Hingorani made his submissions and concluded at 12.40 p.m. Delay condoned.

Substitution allowed.

During the course of hearing, the learned counsel for parties pointed out that there are conflicting decisions rendered by Benches of three learned Judges as to the admissibility of certified copies of sale deeds and treating them as evidence in the absence of examining vendor, vendee or any witness. The learned counsel also submitted that certified copies of the sale deeds produced in these cases

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have material bearing in determining the market value of the lands in question. In *Meharban & Ors. vs. State of U.P. & Ors.* [(1997) 6 SCC 54], a Bench of three learned Judges in paragraph 13 has stated thus :-

"Having regard to the respective contentions, the question that arises for consideration is whether the determination of the compensation by the Reference Court and the High Court is correct in law? It is settled legal position that the Court, while determining the compensation must sit in the armchair of a willing and prudent vendor and put a question whether the market value sought to be determined would be capable of fetching that hypothetical price and should determine a just and adequate compensation for the land acquired. Since none connected with the sale deeds was examined, the sale deeds are inadmissible in evidence though certified copies marked under Section 51-A are available. So, all the sale deeds stand excluded"

Another Bench of three learned Judges of this Court in *Land Acquisition Officer & Mandal Revenue Officer vs. V. Narasaiah* [(2001) 3 SCC 530], without noticing the aforementioned decision (appears to have not been brought to the notice of the Court), in paras 10 and 13 has stated thus:-

"10. Before the introduction of Section 51-A in the LA Act the courts have, invariably, taken the view that unless at least one person, having direct knowledge about the transaction mentioned in the sale deed is examined, the mere marking of the copy of the document was insufficient for the court to consider the details mentioned in the document as evidence. This Court has also approved the said position as legally correct (vide *collector, Raigarh v. Dr. Harisingh Thakur* [(1979) 1 SCC 236]).

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13.If the position regarding admissibility of the contents of a document which is a certified copy falling within the purview of Section 57(5) of the Registration Act was as adumbrated above, even before the introduction of Section 51-A in the LA Act, could there be any legislative object in incorporating the said new provision through Act 68 of 1984? It must be remembered that the State has the burden to prove the market value of the lands acquired by it for which the State may have to depend upon the prices of lands similarly situated which were transacted or sold in the recent past, particularly those lands situated in the neighbouring areas. The practice had shown that for the State officials it was a burden to trace out the persons connected with such transactions mentioned in the sale deeds and then to examine them in court for the purpose of proving such transactions. It was in the wake of the aforesaid practical difficulties that the new Section 51-A was introduced in the LA Act. When the section says that certified copy of a registered document "may be accepted as evidence of the transaction recorded in such document" it enables the court to treat what is recorded in the document, in respect of the transactions referred to therein, as evidence."

Under these circumstances, we direct that the papers may be placed before the Hon'ble Chief Justice for appropriate orders to refer the matters to a larger bench for resolution of the aforementioned conflicting views.

Sarita
Court Master

(Shelly Sengupta)