

PETITIONER:
SMT. INDUMATI CHITALEY

Vs.

RESPONDENT:
GOVERNMENT OF INDIA & ANR.

DATE OF JUDGMENT 01/11/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
KIRPAL B.N. (J)

CITATION:
1996 AIR 531 1995 SCC Supl. (4) 219
JT 1995 (8) 63 1995 SCALE (6) 300

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was published in the State Gazette on October 26, 1960 acquiring an extent of 17 acres 57 cents situated within the Nagpur Municipal limits for establishment of grain godown by the Central Government. The Land Acquisition Officer in his award under Section 11 on April 13, 1967 adopted market value to some lands @ 50 paise per sq. ft. and to some on 49 paise per sq. ft. and determined the compensation after deducting the developmental costs at Rs.2,28,134.91 and ultimately paid to the claimants the total compensation of Rs.38,414.91. On reference under Section 18, the senior Civil Judge by his award and decree dated June 30, 1966 evaluated the land on two methods, namely, as an agricultural land @ Rs.5,000/- per acre or alternatively as a developed area and after deducting the developmental costs determined the total compensation including solatium and interest at Rs.1,22,250/-. On appeal, the High Court in F.A. Nos.80/66, and 76/66, both filed by the appellant as well as by the State, by judgment and decree dated August 7, 1978 adopted that the market value of the land would be at 90 paise per sq. ft. but deducted the developmental costs at Rs.18,000/- per acre of the total extent of the land and directed payment of the balance amount after deducting the amount already paid, of the sum of Rs.48,694.51. Thus this appeal by special leave.

It is contended by Sri U.R. Lalit, learned senior counsel for the appellant that the High Court having fixed the market value @ 90 paise per sq. ft. committed error of law in deducting Rs.18,000/- per acre on the entire total extent of the land of 17.57 acres and thereby the compensation under section 23(1) which was legally due and payable to the appellant was substantially reduced. The principle adopted by the High Court is, therefore, vitiated

by clear error of law warranting interference. It is seen that admittedly the lands remained to be agricultural land even though situated within the limits of the Nagpur Municipal Corporation. The attempt of the appellant to have them converted into non-agricultural lands was rejected. Thereby, the lands continued to be agricultural lands without being developed for building purposes. The question is what would be the principle to be adopted in this case. This Court has repeatedly deprecated the method of evaluating the compensation on the basis of square foot. When a large extent of 17.57 acres of land is offered for sale by private negotiation, would any prudent purchaser negotiate to purchase lands put for sale in open market at square foot basis? No one would come forward to purchase such a vast extent of land on square foot basis. It is seen that the lands are admittedly agricultural lands. Therefore, no one would prefer to purchase the agricultural land on square foot basis. The Principle of determining the compensation on square foot basis is per se illegal.

The question thus is what would be the reasonable market value when the lands are determined as agricultural lands. Though the learned Government pleader appeared before the Reference Court contended that the market value was Rs. 1,500/- per acre, the Court did not accept that contention and held that the prevailing market value as on October 26, 1960 was @ Rs. 5,000/- per acre which was also accepted by the High Court. It would thus be seen that if the lands are sold in the open market as an agricultural land, they were capable of sale @ Rs. 5,000/- per acre. The Reference Court had determined market value as agricultural lands @ Rs. 90,000/-. Though alternative method had been adopted to use it as plots for the building purposes which also was adopted by the High Court, we think that the alternative method adopted by the Reference Court as well as by the High Court is not correct on the facts of this case. Accordingly, we hold that the appellant would be entitled to the market value of the land for a total sum of Rs. 90,000/- together with statutory rate of interest @ 4% per annum and also 15% solatium on the enhanced compensation under Section 23(2) of the Act. The appeals are accordingly allowed to the above extent, setting aside the award and decree of the Reference Court as well as of the High Court. The decree shall be drawn accordingly and the appellant shall be paid the said amount.

The appeals are allowed with costs throughout.