

A

UNION OF INDIA ETC. ETC.

v.

SUNIL CHANDRA SAHA AND ANR. ETC. ETC.

JULY 25, 1995

B

[K. RAMASWAMY AND K.S. PARIPOORNAN, JJ.]

Land Acquisition Act. 1894 :

C

Acquisition—Award—Market Value prevailing on the date of notification—No evidence let in to support or rebut the same—Matter remitted to reference court—Directed to consider and dispose of the matter within three months after giving opportunity to all the parties.

In these appeals, the award and decree as confirmed by the High Court has been challenged.

D

Setting aside the award and decrees, this Court

E

HELD : 1. The appellants-beneficiaries are entitled to a notice and participation in the award inquiry as well as in the reference and could adduce evidence in rebuttal to the claim of higher compensation. Unfortunately, the appellants had no notice nor an opportunity to adduce evidence. In the absence of such relevant and material evidence it would be difficult to determine compensation in respect of the acquired lands. Hence these cases are remitted to the reference court for disposal.

[317-D-F]

F

2. The appellants are directed to appear before the reference court on August 28, 1995. Parties are at liberty to adduce such legal evidence as is necessary to determine true and correct market value of the land prevailing as on the date of the notification. The reference court is directed to consider and dispose of these cases within three months from August 28, 1995 after giving opportunity to all the parties. [317-G]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 5559-60 of 1994.

H

From the Judgment and Order dated 27.11.92 of the Assam High Court in M.A. (F) No. 8/88 & M.A. (F) No. 175 of 1989.

And

C.A. Nos. 5561-93, 5594-5610/94, 3196/95 & 7208-20/95.

A.S. Nambiar, L.K. Gupta, T.C. Sharma and Mrs. Anil Katiyar, for the Appellants

N.R. Choudhury, Somnath Mukherjee, Sanjay Parikh, T.Sridharan, and K.K. Gupta for the Respondents.

The following Order of the Court was delivered :

Leave granted in the S.L.Ps.

We do not propose to express any opinion on merits. Suffice it to state that neither the claimants nor the Land Acquisition Officer had adduced any legally admissible evidence in proof of the market value prevailing as on the date of notification or in rebuttal. The appellants-beneficiaries are entitled to a notice and participation in the award inquiry as well as in the reference and could adduce evidence in rebuttal to the claim of higher compensation. Unfortunately, the appellants had no notice nor an opportunity to adduce evidence. Both the claimants and the Land Acquisition Officer merely marked the sale deeds without examining either the vendor or the vendee to bring on record the circumstances in which the sale deeds came to be executed, the distance of the lands to the acquired lands, the nature of the respective lands and whether they would offer comparable sales to determine just and fair market value to the acquired lands. In the absence of such relevant and material evidence it would be difficult to determine compensation in respect of the acquired lands. The appeals are allowed accordingly. The award and decree of the Reference Court as confirmed by the High Court stand set aside. The cases are remitted to the reference court for disposal.

The appellants are directed to appear before the reference court on August 28, 1995. Parties are at liberty to adduce such legal evidence as is necessary to determine true and correct market value of the land prevailing as on the date of the notification. The reference court is directed to consider and dispose of these cases within three months from August 28, 1995 after giving opportunity to all the parties.

No costs.

G.N.

Disposed of.