



DETERMINATION OF MARKET VALUE FOR COMPENSATION

The Hon'ble Supreme Court, in its judgement dated 31/01/2022 in Civil Appeal Nos. 368-369/2022, has held that it is not the nature of land which alone is determinative of the market value of the land. The market value must be determined keeping in view the various factors including proximity to the developed area and the road etc.

BRIEF FACTS

- The land admeasuring 2.42 hectares was intended to be acquired in pursuance of the notification u/s 4 of the Land Acquisition Act, 1894 for the purpose of resettlement of affected person from Lower Wardha submergence project.
- The Special Land Acquisition Officer granted compensation at the rate of Rs.56,500/- on 31.07.2000. The landowners aggrieved against the inadequate determination of the market value sought references u/s 18 of the Act.
- The order of the Reference Court enhancing the amount of compensation to Rs.1,95,853/- per hectare was set aside by the Hon'ble High Court of Judicature at Bombay. The landowners being aggrieved by the judgment passed by the Hon'ble Bombay High Court, have gone on appeal against the judgement have approached the Hon'ble Supreme Court in the aforementioned appeal.

ISSUE IN QUESTION

- Whether the High Court has erred in setting aside the compensation awarded by the Reference Court?

CONTENTIONS OF THE PARTIES

The Appellant – owner of Property

- The Appellant have argued that the acquired land was near to the populated area of Deoli town having all the facilities like Educational Institutions, Banks, Tahsil Office, Hospitals, Courts and is located within the municipal area of the Deoli.
- Further, they have contended that the learned Reference Court has made deduction to the extent of 90% from the best sale instance which is near to the acquired land. The Reference Court has made deduction 30% of the value on account of non-similarity, 30% on account of the sale being of a small area and another 30% on account of development charges. Therefore, the compensation awarded by the Reference Court has been incorrectly interfered by the High Court.
- The sale example of neighbouring properties are of agricultural land which have no potentiality for non-agricultural activity comparable to the acquired land for residential and commercial purpose being in close vicinity near to such Educational Institutions, Banks, Tahsil Office, Hospitals, Courts. Therefore, the order of the High Court is to be set aside.

The Respondent- Vidarbha Irrigation Development Corporation

- The Respondent contented that the sale examples of neighbouring were of agricultural land whereas the land acquired was a non-agricultural land. Therefore, the High Court had rightly set aside the compensation based on a sale exemplar of a small area of 151 square meters.

DECISION

- **The Hon'ble Supreme Court has held that the High Court has erred in law in setting aside the determination of market value of the land by the Reference Court and that the order of the Reference Court is restored.**
- The evidence produced by the landowners is that the acquired land is close to Educational Institutions, Banks, Tahsil Office etc. whereas there is no evidence that the irrigated

agricultural land has the potential of use for either residential or commercial purposes. **It is not the nature of land which alone is determinative of the market value of the land. The market value must be determined keeping in view the various factors including proximity to the developed area and the road etc.**

- As per the evidence led by the landowners, the land acquired is ½ km from the road. The land is close to developed residential or commercial or institutional area. On the other hand, there is no evidence that agricultural lands are in any way comparable to the land acquired.
- The High Court has erred in law in holding that since the land of the sale exemplars is of irrigated agricultural land whereas the land acquired is unirrigated, is not the reasonable yardstick to determine market value of the land as the land in question is close to already developed area.

SANCTUM LAW COMMENT

The judgement of the Hon'ble Supreme Court has clarified on the crucial question pertaining to the calculation of market value in order to determine compensation awarded for land that has been acquisitioned. This comes as a sigh of relief for landowners having properties within the vicinity of developed areas as the court has set a broad spectrum of parameters for determination of market value. This is also a welcome relief for the general citizenry as it ensures that the landowners are adequately compensated for the land acquired, if any, in whatsoever manner, has to appropriately compensate the landowner.

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