

PETITIONER:
GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

Vs.

RESPONDENT:
NAROTTAMBHAI MORARBHAI & ANR.

DATE OF JUDGMENT: 23/08/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIAK (J)

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Delay condoned.
Leave granted.
Heard learned counsel on both sides.

Notification under Section 4 (1) of the Land Acquisition Act, 1894 [for short, the 'Act'] was last published on April 10, 1989 acquiring a large extent of land admeasuring 8,61,515 sq.mtr. for public purpose, viz., industrial development; the land was at that time fit for cultivation but possessed of potential value and was situated in outskirts of Surat. The Land Acquisition Officer in his award dated April 15, 1991 awarded compensation @ Rs.5/- per sq.mtr. On reference, the extra Assistant Judge by his award and decree dated April 19, 1994 enhanced the compensation to Rs.25/- per sq.mtr. On appeal by both the claimants as well as the State, the High Court while dismissing the appeals of the State further enhanced the compensation to Rs.33/- per sq.mtr. Thus these appeals by special leave.

Though the land was waste land but being possessed of potent value was fit for building purposes and is situated in outskirts of industrial city, the courts below were right in taking into consideration potential value of the land for determination of compensation. In awards for lands notified under Section 4(1) published between December 15, 1986 and December 29, 1989, compensation was awarded in the range of Rs. 4.75 per sq.mtr. to Rs. 7/per sq.mtr. In respect of land situated in lchhapur to a extent of around 908 sq. mtr., the market value was in the range of Rs.33 per sq.mtr. Relying upon that, the High Court enhanced the compensation. In view of the fact that the lands are situated at a distance of two kilometers from the acquired lands reliance on sale deed, Ex.22 by the High Court was wholly unjustified in law. It is accordingly excluded. However, we agree that the lands are possessed of potential value, as found by all the courts below.

No prudent purchaser would purchase large extent of

land on the basis of sale of a small extent of land in the open market. The acid test the court should always adopt in determining market value in the matter of compulsory acquisition would be to eschew feats of imagination sit in the arm chair of a prudent willing purchaser, it should consider whether the willing vendee would offer the rate which the trial court proposes to determine the compensation. Taking these facts into consideration, we are of the view that the reasonable and adequate compensation for the lands would be at net rate of Rs.22/- per sq.mtr., after giving deduction of 1/3rd of the amount towards developmental chargers. Therefore, the claimants would be entitled to the compensation @ Rs. 22/- per sq.mtr. They are also entitled to the statutory benefits on the enhanced compensation.

The appeal are accordingly allowed. No costs.

JUDIS