

[2022 LiveLaw \(SC\) 273](#)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.R. SHAH; B.V. NAGARATHNA, JJ.

MARCH 10, 2022

CIVIL APPEAL NO. 1761 & 1762 OF 2022

Pramina Devi (Dead) Thr. LRs. *Versus* State of Jharkhand

WITH

Mohan Prasad Singh & Anr. *Versus* State of Jharkhand

Judgment - The judgment must have a clarity on the exact relief that is granted by the Court so that it may not create further complication and/or difficulty in the execution. Every litigant must know what actual relief he has received from the Court. (Para 5)

For Appellant(s) Mr. Gaurav Agrawal, AOR For Respondent(s) Mr. Tapesh Kumar Singh, AOR Mr. Aditya Pratap Singh, Adv. Mr. Aditya Narayan Das, Adv.

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgments and orders passed by the High Court of Jharkhand at Ranchi dated 28.03.2019 passed in First Appeal Nos. 40 of 2007 and 41 of 2007, the original appellants – claimants – landowners have preferred the present appeals.

2. That the land of the respective appellants situated in Village Gulabjhari, District Palamau (Jharkhand) were acquired under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as “Act, 1894”) for public purpose. A notification under Section 4 of the Act, 1894 was published on 01.10.1980. That the Land Acquisition Officer awarded Rs. 180/- per decimal. At the instance of the original landowners references were made to the District Court under Section 18 of the Act, 1894. Before the Reference Court, the claimants heavily relied upon the Sale Deed registered between the years 1977 to 1979, which were marked as Exh.2, Exh.2/a, Exh.2/b and Exh.2/c. The Reference Court discarded all the aforesaid sale deeds and dismissed the respective references observing that the valuation of the acquired land has been rightly determined and upheld the awards passed by the Land Acquisition Officer.

2.1 Feeling aggrieved and dissatisfied with the judgments and awards passed by the Reference Court, the original claimants preferred the present appeals before the High Court being First Appeal Nos. 40 of 2007 and 41 of 2007. By the impugned judgment and order, the High Court has observed that the Sale deed Dated 12.02.1979 (Exh.2/a) has to be considered for determination of the market value as the same is in a close proximity in time to the date of notification dated 01.10.1980. By observing so, the High Court has disposed of the appeals and modified the judgments and awards passed by the Reference Court to the extent that the compensation is to be assessed and paid on the basis of the Sale Deed

dated 12.02.1979 (Exh.2/a) and not on the basis of the Sale Deed dated 29.12.1976 (Exh.2/c). However, while passing the final order, the High Court has not assessed and/or determined the actual market value and/or compensation to be payable to the landowners.

2.2 Feeling aggrieved and dissatisfied with the impugned judgments and orders passed by the High Court, the original landowners – original claimants have preferred the present appeals.

3. We have heard learned counsel appearing for the respective parties at length. We have also gone through and considered the impugned judgments and orders passed by the High Court. From the impugned judgment and orders passed by the High Court, it can be seen that after holding that Sale Deed dated 12.02.1979 (Exh.2/a) has to be considered for determination of the compensation with respect to the acquired land, there is no further discussion on the area of the land sold by Sale Deed dated 12.02.1979. The High Court has also not discussed at all the sale consideration for which the Sale Deed dated 12.02.1979 was executed. The High Court has also not noted what was the sale consideration so far as the Sale Deed dated 12.02.1979 (Exh.2/a) is concerned. The High court has also not discussed what was the location of the land so far as the Sale Deed dated 12.02.1979 is concerned. The only observation made by the High Court is that as the Sale Deed dated 12.02.1979 is more proximate in time to the date of notification issued under Section 4 of the Act, 1894, i.e., 01.10.1980 as compared to the Sale Deed dated 29.12.1976, therefore, the Sale Deed dated 12.02.1979 is more appropriate to be considered for the purpose of ascertaining the market value of the property on the date of the notification dated 01.10.1980. It is to be noted that there is no detailed discussion by the High Court by taking into account the relevant factors which are required to be taken into consideration while ascertaining the market price as observed and held by this Court in the case of **Viluben Jhalejar Contractor Vs. State of Gujarat, (2005) 4 SCC 789** in paragraph 20, which reads as under:-

20. The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-à-vis the land under acquisition by placing the two in juxtaposition. The positive and negative factors are as under:

Positive factors	Negative factors
(i) smallness of size	(i) largeness of area
(ii) proximity to a road	(ii) situation in the interior at a distance from the road
(iii) frontage on a road	(iii) narrow strip of land with very small frontage compared to depth
(iv) nearness to developed area	(iv) lower level requiring the depressed portion to be filled up

(v) regular shape	(v) remoteness from developed locality
(vi) level vis-à-vis land under acquisition	(vi) some special disadvantageous factors which would deter a purchaser
(vii) special value for an owner of an adjoining property to whom it may have some very special advantage	

4. It is also required to be noted that there was a time gap of one year and eight months between the Sale Deed dated 12.02.1979 and the Section 4 notification. Therefore, if ultimately, it is found that both are absolutely comparable, in that case, even suitable price rise at the rate of 12% per annum may also have to be considered. However, the High Court has mechanically held that the claimants shall be entitled to the compensation considering the price/sale consideration mentioned in the Sale Deed dated 12.02.1979. While considering the sale deed/sale exemplar, the proximity in time to the date of sale deed and to the date of notification under Section 4 may be a relevant factor but at the same time, other factors, as observed hereinabove are also required to be taken into consideration while determining the actual market price of the acquired land.

5. Even otherwise, it is to be noted that there is no clarity on the actual market price and while passing the final order, the High Court has not stated the exact market value and/or the amount of compensation to be paid. There is no actual assessment and/or determination of market value and/or the compensation. How on such a vague order, a decree can be drawn and how such an order is executable? The judgment must have a clarity on the exact relief that is granted by the Court so that it may not create further complication and/or difficulty in the execution. Every litigant must know what actual relief he has received from the Court. But the impugned judgment and order passed by the High Court lacks total clarity.

6. In view of the above and for the reasons stated above, the impugned judgments and orders passed by the High Court of Jharkhand at Ranchi dated 28.03.2019 passed in First Appeal Nos. 40 of 2007 and 41 of 2007 are hereby quashed and set aside and the appeals are remitted to the High Court to consider and decide the appeals afresh in accordance with law and on merits and after considering the relevant factors while considering the Sale Deed dated 12.02.1979 as a sale exemplar and thereafter to decide and determine the exact market value and the compensation to be paid to the original claimants. For the aforesaid purpose, the appeals before the High court are ordered to be restored to the file of the High Court. The High Court shall make all endeavors to finally decide and dispose of the appeals on remand at the earliest and preferably within a period of six months from the date of the receipt of the present order.

Both the appeals are accordingly partly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.