

CASE NO.:
Appeal (civil) 6056 of 1998

PETITIONER:
DY. COMMISSIONER OF INCOME TAX & ORS.

Vs.

RESPONDENT:
EXPRESS TOWERS P. LTD. & ORS.

DATE OF JUDGMENT: 10/05/2001

BENCH:
S. Rajendra Babu & K.G. Balakrishnan

JUDGMENT:

RAJENDRA BABU, J. :
L...I...T.....T.....T.....T.....T.....T.....T..J

By an agreement made on 21.5.1987, property bearing No. B- 7/118, Safdarjung Enclave Extension, New Delhi, measuring about 375 sq. meter was offered to be sold for a sum of Rs.23.50 lakhs. On an application being made in Form 37(I) before the Appropriate Authority as required under Section 269 UC of the Income Tax Act, 1961 [hereinafter referred to as the Act], the Appropriate Authority proceeded to take into consideration three instances of sale made in respect of property bearing No.B-1/16, Hauz Khas, New Delhi in February 1987; of property bearing NO.J-10, Green Park, New Delhi and B-2/2, Safdarjung Enclave, New Delhi in February 1987. The average of three sale instances was taken into account to work out the land rate of Rs.7,850/- per sq. mtr. and it was concluded that the fair market value of the property in question was over the apparent consideration disclosed by 28.5 per cent. On that basis proceeded to acquire the property for the Union of India, rejecting the explanation offered by the transferor that he was desperate to sell the property in order to go abroad and settle with his only daughter in U.S.A. and that the sale instances are of incomparable properties in different areas and the adjustment can arise in cases where there is basic similarity between two properties. However these reasons appealed to the High Court on challenge made to the order of acquisition and the same was quashed. Hence this appeal by special leave.

The High Court in examining the matter has considered the various aspects in true perspective. The value of the property either with reference to the apparent consideration or the fair market value determined by the Appropriate Authority is not of such magnitude as to call for any interference. We are of the view that this is not a fit case in which interference is called for.

The appeal, therefore, stands dismissed. However, there

shall be no order as to costs.

JUDIS