

THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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LAND ACQUISITION APPEAL SUIT No.1004 OF 2007
AND
CROSS OBJECTIONS (Sr) No.6104 OF 2009

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COMMON JUDGMENT: (per Hon'ble Sri Justice K.C.Bhanu)

This appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act'), is filed by the Land Acquisition Officer aggrieved by the order and decree, dated 16.09.2005, passed in Land Acquisition Original Petition No.11 of 2000 by the learned Senior Civil Judge, Siricilla.

2. Land admeasuring an extent of Ac.1-26 guntas in survey Nos.1, 507 and 508 situated at Mamidipalli Village, Konaraopet Mandal, belonging to the respondents-claimants was acquired under the provisions of the Act for the purpose of providing house sites to weaker sections of the society. Draft Notification under Section 4 (1) of the Act was issued on 04.10.1993 and possession was taken on 16.04.1990. The Land Acquisition Officer, after conducting due enquiry, passed an Award on 15.03.1995 fixing the compensation at Rs.4,500/- per acre. Not satisfied with the same, the respondents- claimants sought reference under Section 18 of the Act and the same was taken on file as LAOP No.11 of 2000 by the reference Court.

3. Before the reference Court, on behalf of the claimants PWs.1 to 4 were examined and Exs.A1 to A8 were marked. On behalf of the respondent, RW.1 was examined, but no documents were marked.

4. The reference Court, after considering the oral and documentary evidence on record, fixed the compensation at Rs.40,000/- per acre for the acquired land. Questioning the enhancement of compensation, the

Land Acquisition Officer filed the present appeal. Not satisfied with enhancement of the compensation ordered by the reference Court, the respondents-claimants filed the cross-objections.

5. The short point that falls for consideration in this appeal is whether the compensation fixed by the reference Court is just and proper?

6. **POINT**

For assessment of compensation for the land acquired, the reference Court must take into consideration several factors viz., nature of land, its present use, its capacity for a higher potential, its precise location in relation to adjoining land, the use to which neighbouring land has been put, availability of amenities. The respondents-claimants relied upon Ex.A.1, which is the certified copy of Registered Sale Deed, dated 23.08.1985, whereunder Ac.0-10 guntas of land was purchased by P.W.4 for a consideration of Rs.10,000/- which comes to Rs.40,000/- per acre. Ex.A.1 is not denied or disputed. The sale transaction under Ex.A.1 is prior to issuance of draft notification under Section 4 (1) of the Act i.e., nearly five years after taking possession. Admittedly, advance possession was taken in the year 1990 and the draft notification under Section 4 (1) of the Act was issued on 04.10.1993. Therefore, the sale transaction under Ex.A.1 can safely be taken as a basis for determining proper and appropriate market value of the acquired land as the land covered under Ex.A.1 is very near to the Village, and perhaps that is the reason why the Government acquired the said land for providing house sites to weaker sections of the society. The acquired land was located near human habitation. The land covered under Ex.A.1 is a potential in nature and a hike in its price future also would be presumed. Such presumption cannot be said to be arbitrary or illegal. Therefore, 5% escalation in every year can be taken into consideration for the purpose of fixing the market value and if that is taken into

consideration, market value of the acquired land comes to Rs.50,000/- (40,000+10,000 (40,000 x 5% x 5 years)) per acre, which cannot be shown to be unreasonable or unjust. Therefore, considering Ex.A.1-registered sale deed, we have no hesitation in fixing the market value of the acquired land at Rs.50,000/- per acre. Hence, the point is answered in favour of the respondents-claimants.

7. Accordingly, the appeal filed by the Land Acquisition Officer is dismissed, whereas the cross-objections filed by the respondents-claimants are allowed enhancing the compensation from Rs.40,000/- per acre to Rs.50,000/- per acre. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

K.C.BHANU, J

M.SEETHARAMA MURTI, J

JANUARY 21, 2015

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