

HON'BLE SRI JUSTICE K.C. BHANU

AND

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

LAAS No.139 of 2007

JUDGMENT: (Per Hon'ble Sri Justice M. Seetharama Murti)

This Appeal by the State i.e., the Land Acquisition Officer-cum-Revenue Divisional Officer, Sircilla is directed against the order dated 15.07.2005 of the learned Senior Civil Judge, Sircilla passed in LAOP.No.14 of 2002.

2. We have heard the submissions of the learned Government Pleader for appeals appearing for the appellant. We have carefully perused the material record. None appeared for the respondent.

3. The facts necessary for consideration, in brief, are as follows: - 'The land in an extent of Ac.5.04 cents in Sy.Nos.223 and 224 of Nampally village of Vemulawada Mandal belonging to the claimant was acquired for providing house sites to weaker sections by virtue of Section 4(1) notification published in District Gazettee No.15 dated 25.11.1999. The possession of the land was taken over on 24.06.2000. After the award enquiry an award was passed on 31.10.2001 fixing the land value at the rate of Rs.22,000/- per acre; and other statutory benefits were also granted. However, not being satisfied with the compensation awarded, the claimant having filed a protest petition under Section 18 of the Act had requested for a reference to be made to the civil court for determination of fair and proper market value and award of just compensation. The reference was taken on the file of the Senior Civil Judge at Sircilla as LAOP.No.14 of 2002. Before the reference court, the claimant and his supporting witnesses were examined as PWs1 to 3 and exhibits A1 to A3 were exhibited. The RDO concerned was examined as RW1. But no documents were marked on the side of the respondent/LAO. On merits, the

reference court enhanced the compensation by determining the market value of the land at the rate of Rs.35,000/- per acre and also granted other statutory benefits to the claimant. Therefore, the grieved LAO is before this court.

4. The learned GP for appeals had submitted that the compensation was enhanced by the court below without sufficient legal and acceptable evidence on record and that the reference court having rightly discarded the sale transaction under exhibits A1 to A3 had failed to confirm the market value as fixed in the award and that the reference court had erroneously enhanced the compensation even though no sufficient evidence was adduced by the claimant and that the reference court had failed to take note that exhibit A1 is a post notification sale transaction and that the sales under exhibits A1 and A2 relate to small extents of lands and that under the said sale deeds, the said extents were purchased for residential and commercial purposes and that therefore, the sales under the said documents are not comparable sales and do not serve as a guidance for determining the compensation in the instant case.

5. There is no dispute about the facts and the only question to be considered is – ‘whether the market value of the acquired land determined by the reference court is just, fair and reasonable?’

6. The burden of proof is upon the claimant to prove that the market value of the land is Rs.35,000/- per acre as was determined by the reference court. Exhibit A3 is the certified copy of the sale deed dated 18.12.2000 in respect of 200 square yards of house site in survey no.445 and 446 of Nampalli village and the sale consideration under the said sale deed works out to Rs.50/- per square yard. It is a post notification sale. Further, the survey numbers of the acquired land are 223 and 224. Coming to exhibits A1 and A2 both dated 17.05.1999, they are the sale deeds in favour of PWs2 and 3 where under house sites in survey numbers 321 and 326 A of Nampalli village were sold at the rate of Rs.50/- per square yard. In the map filed by the LAO along with the Award, there is a reference to the properties covered by exhibits A1 and A2 and the said lands are situate at a distance of 100 to

150 square yards on the other side of the road in relation to the acquired lands which are on the Southern side of the road. Both the sale deeds are prior to the notification. The transactions under the said documents are not shown to be collusive transactions. However, since the extents covered by A1 and A2 are 8 and 10 guntas respectively, the LAO did not consider the said documents. As rightly contended by the learned counsel for the claimant when the lands are fit for use as house sites large extents will not be sold and purchased in the normal course. The law is well settled that when no sale transactions for large extents are available, even sale transactions of small extents of land also can be taken into consideration after giving necessary deductions, if the facts so warrant. Therefore, the transactions under exhibits A1 and A2 coupled with other circumstances like the potentiality and the strategic location of the land can be taken into consideration as guidance while determining the compensation awardable in respect of the acquired land. It is borne out by evidence that the acquired lands are at a distance of 200 or 300 yards from the bus stand of Nampalli village and at a distance of 30 to 40 yards from R & B road leading from Karimnagar to Sircilla and that earlier, the claimant was cultivating the lands by raising commercial crops like Cotton and chilly and used to earn Rs.20,000/- to Rs.30,000/- per annum. PWs2 and 3 who are residents of Nampalli village had testified that PW1 used to raise commercial crops like chillies and cotton in the acquired lands and that they had purchased lands covered by S.Nos.321 and 326A of Nampalli village and those lands are situate to the West of the acquired lands and at a distance of 100 or 150 yards. It is borne out by record that the acquired lands are a distance of 4 kilometers from Vemulavada Mandal headquarters. The land acquired is a considerable extent of Ac.5.04 cents. The land is acquired for providing house sites for weaker sections is indicative of the fact that the land is well suited for use as house sites either in the immediate or near future. As per the decision in **A. Natesam Pillai v. Special Tahsildar, Land Acquisition, Tiruchy**^[1] potentiality of the acquired land, insofar as it relates to the use to which it is reasonably capable of being put in the immediate or near future, must be given due consideration.

Therefore, on a harmonious consideration of the facts and the evidence on record, we find that the market value of the acquired land determined by the reference court at the rate of Rs.35,000/- per acre is just, fair and reasonable.

7. Viewed thus, we find no reason to interfere with the order of the court below.

8. In the result, the Appeal is dismissed. As a sequel, miscellaneous petitions, if any, pending in this appeal shall also stand dismissed.

K.C. BHANU, J

M. SEETHARAMA MURTI, J

27th January 2015
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[\[1\]](#) (2010) 9 SCC 118