

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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APPEAL SUIT No.2261 OF 2003

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JUDGMENT: (per Sri Justice M.Seetharama Murti)

This is an appeal by the Land Acquisition Officer-cum-Mandal Revenue Officer, Sirvel, assailing the order dated 30.11.2000 passed by the learned Senior Civil Judge, Allagadda in Land Acquisition Original Petition No.69 of 2000.

2. We have heard the submissions of learned Government Pleader for Appeals appearing for the appellant and the learned counsel for the respondents. We have perused the material record.

3. The basic facts necessary for consideration, in brief, are as follows:-

Land in an extent of Ac.2-20 cents in survey No.210/1 of B.V.S. Nagar Village, Hamlet of Jeenipalli Village, was acquired for providing house sites to the Scheduled Castes and other weaker sections of the society by virtue of draft notification, dated 07.08.1986 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the Act') and possession was taken on 24.10.1987. After due award enquiry, an award was passed by the Land Acquisition Officer and compensation for the acquired land was determined at the rate of Rs.5,000/- per acre. Having not been satisfied with the said determination of compensation, the claimants had sought reference to the Civil Court by filing an application under Section 18 of the Act before the Mandal Revenue Officer, Sirvel. On a reference made, the aforementioned Original Petition was taken on file by the learned Senior Civil Judge, Allagadda.

4. During the course of enquiry before the reference Court, on behalf of the claimants RWs.1 and 2 were examined and exhibits B1 and B2 were marked. No evidence was adduced on the side of the LAO i.e., the appellant herein, but, exhibit

A1-the copy of the award was marked.

5. On merits, the reference Court enhanced the compensation from Rs.5,000/- per acre to Rs.9,000/- per acre and had further held that claimants are entitled to all statutory benefits. Aggrieved of the said order, the Land Acquisition Officer is before this Court.

6. Learned Government Pleader for Appeals appearing for the appellant had submitted that the Land Acquisition Officer determined the compensation correctly having regard to the facts and circumstances of the case and the comparable sales and that without any reliable or credible evidence, the Civil Court had enhanced the compensation and that exhibits B1 and B2 are only the nominal documents and therefore, the appeal has to be allowed.

7. On the other hand, learned counsel for the respondents/claimants had submitted that exhibits B1 and B2 – sale deeds were proved by the claimants by examining RW2 and that RW2 had deposed that he purchased Ac.0-50 cents of land from the original owner for Rs.9,500/- per acre under exhibit B2 and that the land covered by exhibit B2 is situated in survey No.219 of Jeenepalli Village and that, therefore, there is adequate evidence on record to show that the said sale transactions under the said documents are comparable sale transactions and not collusive transactions and that the Court below on proper appreciation of evidence on record had rightly determined the compensation and that, therefore, the appeal is devoid of merit and is liable to be dismissed.

8. Now the only point for consideration is – ‘whether the compensation determined by the reference Court at the rate of Rs.9,000/- per acre is just and proper?’

9. There is no dispute about the facts of the case. The land was acquired for providing house sites to Scheduled Castes and other weaker sections of the society, which itself is indicative of the fact that the land is fit for use as house sites in the near or immediate future and it is having a potential value. RW1 is the husband of the original claimant and he had deposed that at the time of acquisition of the land, the market value of the said land is Rs.20,000/- per acre and that the acquired land is fit for use as house sites. He had also testified that he used to raise crops like cotton, paddy, coconut and chillies in the acquired land and that he used to get a net annual income of Rs.15,000/- per acre. Exhibit B1 is the copy of registered sale

deed dated 31.07.1987 under which the 1st respondent/1st claimant had sold Ac.0.61 cents of land for Rs.11,590/- to one B.Siva Reddy and exhibit B.2 is the copy of the registered sale deed dated 31.07.1987 under which the said respondent sold an extent of Ac.0-50 cents of land to one L. Venkateswara Rao. RW1 had deposed that during the lifetime of his wife, the deceased 1st respondent, the Government had acquired the subject land which is a wet land. According to his evidence, the land acquired by the Government is comparable in all respects to the lands sold under exhibits B1 and B2. The respondents had also further examined RW2 to corroborate the version of RW1. He had deposed that he had purchased the land under exhibit B2 which is in survey No.219 of Jeenepalli village and that on the same day, the deceased 1st respondent had also sold the land under exhibit B1 and that the said land is situate by the side of his land under exhibit B2 and that the lands under the said documents are comparable in all respects to the lands acquired and that his lands are being irrigated with K.C canal waters and that the lands are also fit for use as house sites. These sale deeds under exhibit B1 and B2 are subsequent to 4(1) notification is not in dispute. In the cross examinations of RWs1 and 2, no important points are elicited to discredit their evidence and the transactions under exhibits B1 and B2 are not shown to be collusive transactions. Taking into consideration the evidence brought on record, which is discussed supra, and also the location and the potentiality of the acquired land, the reference Court had determined the market value of the acquired land at the rate of Rs.9,000/- per acre. Having thus carefully analyzed the evidence, we find no error either in appreciation of the evidence on record or application of the evidence to the facts of the case. On the other hand, we are of the considered view that determination of compensation at the rate of Rs.9,000/- per acre for the acquired land in the facts and circumstances of the case is just and proper. Viewed thus, we find no merit in the appeal and that therefore, the appeal is liable to be dismissed.

10 In the result, the Appeal is dismissed. 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

MARCH 10, 2015

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DATE: 10.03.2015

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