

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

APPEAL SUIT No.4012 of 2003

JUDGMENT: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This appeal is preferred by the Land Acquisition Officer under Section 54 of the Land Acquisition Act (for short 'the Act') calling in question the order passed by the Reference Court in O.P.No.61 of 1992 dated 24.08.1998.

Land of a total extent of Ac.10-12 cents has been acquired compulsorily for a public purpose namely excavation of North Feeder Channel under Somasila Project-Irrigation Project-through a notification under Section 4(1) of the Act published on 09.11.1989. The Land Acquisition Officer has passed award on 19.03.1991 fixing the market value at Rs.5,600/- per acre and also Rs.74/- for each mango tree found in the land. Not being satisfied with this fixation of market value, the claimants sought for a reference to be made to the civil court. That is how several O.P.s were referred to the Court of Senior Civil Judge, Kovur, Nellore District for fixation of appropriate market value in terms and in accordance with Section 18 of the Act. The Civil Court by its order dated 24.08.1998 enhanced the market value of the land from Rs.5,600/- per acre to Rs.10,000/- per acre. It has also fixed the market value of mango trees standing on the land at Rs.400/- per tree, enhancing it from Rs.74/- as fixed by the Land Acquisition Officer. Right at this stage, it will be appropriate to notice that against 2 other connected O.P.s, which also relate to the same notification dated 09.11.1989, 2 separate appeals have been preferred bearing A.S.Nos.3800 of 2003 and 3402 of 2003. Both these appeals have been considered by a Division Bench of this Court and they have been dismissed on 10.07.2006. Thus, upholding the fixation of market value by the Civil Court. We should also record right at this stage that in the present O.P., the land of the respondent/claimant of an extent of Ac.0-47 cents is acquired and

consequently, the appeal preferred by the Land Acquisition Officer relates to a paltry sum of Rs.2,720/-.

The Civil Court has taken into account and consideration, apart from the statements made by PWs.1 to 4, Ex.A1, which is executed on 25.03.1983. Through Ex.A1-agreement of sale, 42 acres of land was purchased @ Rs.6,500/- per acre for an aggregate sum of Rs.2,73,000/-. On the day of execution of the document namely 25.03.1983, a sum of Rs.50,000/- was paid and the balance amount was also paid, which are marked as Exs.A2 and A3, the payment endorsements. Since relatively heavy amount (going by the standards of 1983) was paid up, the agreement of sale, Ex.A.1, inspires confidence to be trusted as a genuine document. Therefore, going by Ex.A1 which is more than 6 years ahead in time of the compulsory notification dated 09.11.1989, the market valuation of the land acquired by the Land Acquisition Officer cannot be described or characterised as fair. On the other hand, by adopting the annual incremental formula towards escalation of market price, it becomes clear that the land value would have touched a minimum of Rs.10,000/- per acre, by 1989. Thus, after a due and elaborate consideration of the material brought on record, the Civil Court has arrived at the market value of the land acquired as Rs.10,000/- per acre. We are in agreement with the reasoning of the reference Court. We therefore do not find any justification whatsoever for interfering with the well considered order passed by the civil court enhancing the market value of the land from Rs.5,600/- to Rs.10,000/- per acre. Similarly, when once the Land Acquisition Officer has noticed that there are several mango trees which are standing on the lands acquired, it should have occurred to him that the lands are fertile and they are capable of being used for raising mango orchard and thus, it could have been put to use for horticulture purpose. From that perspective also, the value fixed by the Land Acquisition Officer @ Rs.5,600/- per acre is grossly under valued. So for this reason also we support the fixation of market value at Rs.10,000/- per acre. It is also relevant to notice that for the mango trees, the civil court has fixed at Rs.400/- per tree, whereas the Land

Acquisition Officer has given a paltry sum of Rs.74/- per tree. The fixation of value of mango trees by civil Court even in this regard does not appear to be an unreasonable one for us to reverse any such finding.

Accordingly, we do not find any merit in this appeal and it is accordingly dismissed. If the enhanced amount of compensation has not been deposited so far to the credit of the O.P. or offered directly to the claimant through a crossed account payee demand draft, the same shall be done within a maximum period of two months from the date of receipt of a copy of this order.

Consequently, miscellaneous petitions, if any, pending shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

08.12.2015

Note: Dispatch the order immediately
(B/o)
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