

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE SMT. JUSTICE ANIS

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LETTERS PATENT APPEAL NOS.349 & 424 OF 2001

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

These letter patent appeals are preferred under Clause 15 of the Letters Patent Act, 1894, which are directed against the judgment rendered by the learned Single Judge, dismissing all the five appeals preferred by the Land Acquisition Officer calling in question the respective awards passed by the Reference Court.

The land in question of the total extent of Ac.36-15½ guntas is acquired for laying a 100 feet by-pass road to connect the Defence Research & Development Establishment to Defence Research Centre Imarat. The common award was passed on 05.12.1989 by the Land Acquisition Officer fixing the market value of the land at the rate of Rs.20/- per sq.yd and then awarded Rs.15/- per sq.yd after deducting 1/3rd towards the developmental charges. The Reference Court fixed the market value of Rs.30/- and after deducting 1/3rd, awarded Rs.20/- per sq.yd. It is against this order of the Reference Court, the appeal was preferred from out of which the present L.P.A arises.

The land that was acquired was lying on the outskirts of the city limits of Hyderabad then, whereas, in quick time after 1989, the locality where the D.R.D.O labs were situate has in fact become part of the ever expanding limits of Hyderabad city.

The learned single Judge has noticed the relevant principles in the matter of fixation of market value and found that award of Rs.20/- per sq.yd by the Reference Court as fair and reasonable. In fact, the method of valuation adopted by the Reference Court, we may add, is on a conservative scale. Hence, the learned single Judge has rightly dismissed the appeals preferred by the Land Acquisition Officer against the respective awards, under Section 54 of the Land Acquisition Act. Sri Sarath, learned Government Pleader would contend that, when the Land Acquisition Officer has rightly fixed the market value of Rs.20 per sq.yd, the Reference Court ought not have

interfered and consequently the learned single Judge ought not have confirmed the award of Reference Court. This apart, it is contended by the learned Government Pleader for Land Acquisition Officer that the learned Judge has now directed the Collector to give notice to all other claimants covered by the common award dated 05.12.1989, without waiting for a formal application from them to be received under Section 28-A of the Land Acquisition Act and re-determine the compensation payable to such other beneficiaries. This, according to the learned Government Pleader is an erroneous approach in a civil appeal arising out of the reference proceedings.

Dealing with the first submission of the learned Government Pleader Sri Sarath, we are not at all impressed by that contention. Even by the year 1988-1989, when Hyderabad city has not transformed itself into a metropolitan area, the laboratories where the Defence Research & Development Organization (DRDO) established its laboratories are not too far removed from the civilized residential colonies nearby. By the existing standards, those laboratories were established slightly at a distance of 4 to 5 kilometres, but however, when several hundreds and thousands of employees started attending to their duties and responsibilities day-in and day-out while working in one laboratory or the other, the developmental and expansion activities took place rapidly in that direction. Therefore, determination of compensation to be awarded at the rate of Rs.20/- sq.yd even in the year 1988-1989 was certainly on a conservative scale. Therefore, the interference with the award passed by the Reference Court under Section 18 is not warranted at all. We are, therefore, in agreement with the view of the learned single Judge in dismissing the appeal.

But however, the learned Government Pleader is certainly right in drawing our attention to the contents of Section 28-A of the Land Acquisition Act, which came to be inserted by the Amending Act No. 68/1984. It clearly spelt out that the persons interested in all other land(s) covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court.

Therefore, the Collector on his own is not required to re-determine the amount of

compensation for such of those aggrieved persons covered by the same notification issued under Section 4(1) of the Act. Further, such an exercise can be indulged in only upon an application made to the Collector by the aggrieved party. Such an application was also to be made within a period of three months from the date of award made under Section 18 in favour of some other claimants whose lands are also covered by the same notification issued under Section 4(1). Therefore, the whole exercise is a structured format involving verification of both facts and the eligibility for the receipt of such compensation. May be, under public law domain, the writ court may dispense with the need for all the parties to approach the Court. A common order which is capable of securing justice to all can be resorted to. But however, the learned single Judge, in the instant case was dealing with an appeal preferred in exercise of civil appellate jurisdiction under Section 54 of the Land Acquisition Act. Therefore, to the extent the learned single Judge has issued directions to the Collector to re-determine the compensation for all others, perhaps, is not sustainable and accordingly we set-aside that part of the direction found mentioned in the judgment under appeal.

However, we hasten to add that we have not declared that the provisions of Section 28-A are not liable to be complied with by the Collector, if an appropriate application has been received by him from any aggrieved person.

Accordingly, the letters patent appeal stands disposed of.

Consequently, miscellaneous applications pending if any, shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

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