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

APPEAL SUIT No.682 OF 2003

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

This Appeal Suit, under Section 34 of the Land Acquisition Act, 1894 (for short, 'the Act'), is filed challenging the judgment and decree, dated 21.12.2002 in Original Petition No.33 of 1996 passed by the Senior Civil Judge, Jagtial.

2. For the sake of convenience, parties are referred to as they are arrayed before the trial Court.

3. Brief facts that are necessary for the disposal of the present appeal may be stated as follows:

Dry land to an extent of Acs.2-29 Gts., in Sy.No.164 of Somanapalli village, Jagtial Mandal of Karimnagar District belongs to the claimants was acquired for public purpose of providing house sites to the weaker sections of the Society. The Government issued a draft notification under Section 4(1) of the Act, which was published in the Gazette on 19.09.1994. The Land Acquisition Officer after conducting due enquiry, fixed the market value of the said land at Rs.11,100/- per acre. Not satisfied with the same, claimants filed an application under Section 18 of the Act to refer the matter to the Civil Court for determination of the proper market value.

4. On behalf of the claimants, PWs.1 to 3 were examined and Ex.A.1 was got marked. On behalf of the respondent, RW.1 was examined and Ex.B.1 was got marked.

5. The trial Court having appreciated the evidence on record, found that Ex.A.1 cannot be taken as comparable sale because it relates to a small extent of land and discarded Ex.A.1 and accordingly confirmed the award. Challenging the same, the present appeal is filed.

6. The point that arises for consideration is:

Whether the compensation awarded by the Court below is just and proper?

POINT:

7. Learned counsel for the appellants contended that the land covered under Ex.A.1 sale transaction is very near to the land of the claimants, which was acquired for public purpose of providing house sites, therefore, the sale transaction covered under Ex.A.1 can safely be taken as comparable sale in determining the appropriate and proper compensation and therefore, he prays to enhance the compensation.

8. On the other hand, learned Government Pleader for Appeals contended that Ex.A.1 cannot be taken as comparable sale as the land covered under Ex.A.1 is a small extent, which is Ac.0-05 Gts., of land, therefore, it cannot be taken as a basis for determining the market value of the acquired land as provided under Section 23 of the Act and hence he prays to dismiss the appeal.

9. While determining the compensation, the trial Court has to consider the appropriate market value of the land acquired as on the date of notification. Admittedly, the notification was issued and it was published in the official gazette on 19.09.1994. Thought the

evidence of PWs.1 to 3 shows that the acquired lands are wet lands and the crops are being raised with the water and they are getting Rs.80,000/- per acre, except the interested testimony of PWs.1 to 3, their evidence is not supported by any other document such as revenue records, adanguls, 10(1) account or tax receipts etc. Therefore, in the absence of any documentary evidence, no reliance can be placed upon the oral evidence of PWs.1 to 3.

10. Remaining documentary evidence available on record is Ex.A.1, which is sale transaction in respect of house site to an extent of 605 square yards in Sy.No.164 of Somanpalli village. It is Ac.0-05 Gts., of dry land, sold for house site at the rate of Rs.15/- per square yard. The acquired land is also situated in the same survey number of the same village. Therefore, the acquired land has got same potentiality for selling the same as house sites. That is the reason why the Government also acquired the said land for public purpose of providing house sites to the weaker sections of the society and Ex.A.1 can be taken as guidance for the purpose of determination of proper compensation. Taking into consideration Ex.A.1 sale transaction, the market value of the acquired land can be fixed at Rs.72,600/- per acre.

11. In view of the fact that the land acquired is Acs.2-29 Gts., which is for providing house sites to the weaker sections, 50% can be deducted for the purpose of infrastructure development like drainage, roads etc. If 50% is deducted, the appellants are entitled for a sum of Rs.36,300/- per acre. This aspect of the case has been completely overlooked by the trial Court and therefore, the reference Court is not right in rejecting the sale transaction covered under Ex.A.1. Hence, we enhance the compensation from Rs.11,100/- per acre to Rs.36,300/- per acre, making it clear

that the appellants are entitled to all the statutory benefits on the enhanced amount.

12. Accordingly, the appeal is allowed to the extent indicated above. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

JUSTICE K.C. BHANU

JUSTICE M.SEETHARAMA MURTI

Date:19.02.2015
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