

**HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE S. RAVI KUMAR**

APPEAL SUIT No.2437 of 1998

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Date:09-09-2015

Between:

Kurapati Musalaiah (died per L.Rs
appellants 2 & 3) S/o. Rangaiah Naidu,
aged 75 years, Venkatapuram Post,
Hamlet of Pulikallu, Podalakur Mandal,
Nellore District and others.

... Petitioners.

AND

The Special Deputy Collector
(Land Acquisition), Telugu Ganga
Project, Nellore.

...Respondents.

The Court made the following :

**HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE S. RAVI KUMAR**

APPEAL SUIT No.2437 of 1998

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JUDGMENT: (Per Hon''ble Sri Justice Ramesh Ranganathan)

This appeal is preferred against the Judgment and Decree passed by the learned Additional Subordinate Judge, Gudur in LAOP.No.378 of 1988 dated 27-06-1997.

The Section 4 (1) notification for acquisition, among others, of 600 lemon trees was issued on 09-04-1984. An award was passed by the Land Acquisition Officer on 31-10-1987 fixing the market value of each lemon tree at Rs.49.50. The appellants herein contended before the

reference Court that these were all fruit bearing lemon trees grown 5 to 6 years before the Section 4 (1) notification. Before the reference Court, the appellants herein claimed compensation at Rs.4,500/- per lemon tree. By the Judgment and Decree under appeal, the reference Court rejected their claim.

Sri. P. Sridhar Reddy, learned counsel for the appellants, would draw our attention to Exs.A2 & A3 which are the adangal extracts marked through P.W.2-the Village Karanam from the years 1980 onwards. These adangal extracts record the existence of lemon trees. Learned counsel would also place reliance on the report of the Director of horticulture, marked as Ex.X-3, to contend that the reference Court had erred in not enhancing the market value for the lemon tree from the market value fixed by the Land Acquisition Officer at Rs.49.50 per tree. He would also rely on the Division Bench Judgment of this Court, in L.A.A.S No.290 of 2005 dated 31-12-2010, in support of his submission that this Court, relying upon the very same report of the expert committee, had fixed the annual yield for each lemon tree as Rs.115/- per tree, and applying the multiplier of '14' had fixed the market value at Rs.1610/- per tree.

Learned Government Pleader for Appeals, while fairly stating that the market value per lemon tree should, in the light of the Division Bench Judgment in L.A.A.S No.290 of 2005 dated 31-12-2010, be enhanced, would however contend that the appellants cannot simultaneously claim compensation for the lemon tree and for the land wherein these lemon trees are grown.

In the present case, the reference court had fixed the market value of the land at Rs.10,000/- per acre. The submission of the learned Government Pleader, that the market value for the lemon trees grown on the entire extent of land should be fixed after reducing therefrom the compensation paid for the land, has considerable force. The fact, however, remains that the Government has chosen not to prefer an appeal against the Judgment and Decree passed by the reference court and, to the extent the Court below fixed the market value at Rs.10,000/-

per acre of land, the order has attained finality.

Following the judgment of the Division Bench, in L.A.A.S No.290 of 2005 dated 31-12-2010, the market value per lemon tree is fixed at Rs.1610/- (Rs.115/- X multiplier of '14'). The appellants shall, in addition, be entitled for all statutory benefits including interest on solatium and additional market value. Their entitlement for interest, mentioned hereinabove, shall only be from 19-9-2001 (the date of which the Supreme Court pronounced Judgment in **SUNDER vs. UNION OF INDIA**^[1]).

The appeal is disposed of accordingly. Miscellaneous petitions, if any, pending in this appeal, shall stand disposed of. No costs.

JUSTICE RAMESH RANGANATHAN

JUSTICE S. RAVI KUMAR

Date:09-09-2015
mrh

^[1] (2001) 7 SCC 211