

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

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L.A.A.S.No.200 OF 2006

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

This appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act') is filed challenging the order and decree, dated 19.04.2002, in Original Petition No.158 of 1994 on the file of the Principal Senior Civil Judge, Anantapur.

2. Dry land to an extent of Ac.11.29 cents i.e., 4.68.5 hectares in Survey No.175.1 of Mylarampalli Village of Uravakonda Mandal, Anantapur District was acquired by the Land Acquisition Officer (for short, "L.A.O") for the purpose of foreshore submersion of Penna Ahobilam Balancing Reservoir (for short, "PABR Dam") by issuing a notification under Section 4(1) of the Act, which was published in the official gazette on 20.2.1993. The L.A.O., on conducting the enquiry, passed an Award No.6/1994 on 18.3.1994 and awarded a sum of Rs.4,06,162/- by fixing the market value at Rs.13,000/- per acre. Not satisfied with the same, the claimant made an application to the L.A.O. seeking reference to the Civil Court for determination of proper and appropriate compensation. Accordingly, the L.A.O. referred the matter to Civil Court, which was taken on file as O.P.No.158 of 1994.

3. On behalf of the claimant, P.W.1 was examined and Exs.A-1 to A-19 were got marked. On behalf of the respondent, no oral evidence was adduced, but Exs.B-1 to B-3 were got marked.

4. Considering the Award passed by the L.A.O., the reference Court

fixed the market value at Rs.19,500/- per acre. Challenging the same, the present appeal is filed by the claimant.

5. Now the point for consideration in this appeal is:

“Whether the appellant/claimant is entitled for enhancement of compensation, as prayed for, or not?”

6. **POINT:** Learned counsel for the appellant/claimant contended that the acquired land is having potential value of converting it to house sites; that in the year 1949, an extent of Ac.0.01 3/4th cent was sold at Rs.50/- per square yard in the same survey number and even if that is taken into consideration, the value of the land is Rs.1,30,000/- per acre; that Exs.A-1 to A-16, which are the registration extracts of the sale deeds, would go to show that the value of the land is more than Rs.1.00 lakh and hence, he prays to enhance the compensation.

7. On the other hand, learned Government Pleader for Appeals (Andhra Pradesh) contended that the extents covered by Exs.A-1 to A-16 are small extents and they cannot be taken as a basis for determining the value of the land and they cannot be taken as comparable sales when a large extent of land was acquired for foreshore submersion of PABR Dam; that the land in question cannot be used for house sites and the documents relied upon by the claimant cannot be taken as a basis for determining the compensation; that after consideration of the entire evidence on record, the reference Court rightly fixed the market value of the land at Rs.19,500/- per acre and that order needs no interference by this Court and therefore, he prays to dismiss the appeal.

8. Under Section 23 of the Act, the reference Court has to take into consideration the market value of the lands as on the date of notification issued under Section 4(1) of the Act. The entire case rests upon the oral evidence of P.W.1 and Exs.A-1 to A-16. All the exhibits

relate to small extents of land with regard to the sale of sites for the purpose of constructing houses. Therefore, as rightly pointed out by the learned Government Pleader for Appeals, they cannot be taken as a basis for determination of proper market value of the land in question, but they can be taken as a guidance for the purpose of ascertaining the market value.

9. There is evidence on record which would go to show that the land acquired by the Government for foreshore submersion of PABR Dam is in a strategic location very near to Mylarampalli Village; that there is evidence on record which would go to show that an extent of Ac.7.05 cents in Sy.No.175-1A was covered by pomegranate and orange garden, an extent of Ac.0.70 cents in Sy.No.175-1B was covered with houses and huts, an extent of Ac.0.01 cents was covered with Maremma Temple, an extent of Ac.0.25 cents in Sy.No.175-1D was covered by school building, an extent of Ac.0.18 cents in Sy.No.175-1E, an extent of Ac.1.25 cents in Sy.No.175-1F and an extent of Ac.2.11 cents in Sy.No.175-1G were being irrigated by raising groundnut crop. As a matter of fact, this evidence of P.W.1 has been referred to in the Award proceedings wherein the L.A.O. specifically stated that the entire land is situated abutting the village Mylarampalli and is fit for house sites and straw yards. It is also stated that the land acquired is having potential value for the house sites. It is also stated that the garden lands like cheeni, orange and pomegranate will carry more value than the dry land. Therefore, considering the potentiality of the land acquired, it requires enhancement in view of the fact that the sale transactions covered by Exs.A-1 to A-16 would clearly go to show that the value of the land is more than Rs.1,30,000/- per acre. The transactions covered by Exs.A-1 to A-16 are relating to selling of small extents of sites for the purpose of construction of the houses, but in this case, large extent was acquired for the purpose of foreshore submersion of PABR Dam. Therefore, it

cannot be fit for cultivation. If 2/3rd of the value is taken out from considering the valuation mentioned in Exs.A-1 to A-16, the claimant is entitled to at least 1/3rd of the valuation mentioned in Exs.A-1 to A-13. If that is taken into consideration, the value of the land can safely be fixed at Rs.39,000/- per acre. Therefore, considering the evidence on record, we have no hesitation in holding that the value of the land is more than the dry lands and considering the fact that it contains orchards, we fix the rate at Rs.39,000/- per acre.

10. Accordingly, the appeal is allowed making it clear that the appellant/claimant is entitled to the statutory benefits under the Act. There shall be no order as to costs.

11. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

JUSTICE K.C.BHANU

JUSTICE M.SEETHARAMA MURTI

Date: 23.02.2015
AMD
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AND
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