

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. 159 OF 2007

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 11.03.2005 in Original Petition No.35 of 2000 on the file of the Senior Civil Judge, Sanga Reddy.

2. The brief facts are as follows:

An extent of Ac.3.20 guntas in Survey No.189 of Chalki Village was acquired by the Government for public purpose of construction of filter beds at Chalki village by issuing a notification under Section 4(1) of the Act on 26.02.1991. After conducting due enquiry, the Land Acquisition Officer (LAO) passed an Award dated 29.07.1992 fixing the market value of the land acquired at Rs.5,000/- per acre. Not satisfied with the same, the respondent/claimant made an application to the District Collector to refer his application to competent civil court under Section 18 of the Act for the purpose of determination of the market value of the land. Accordingly, it was referred to the reference Court, which took the same on file as Original Petition No.35 of 2000.

3. Before the reference Court, on behalf of the claimant, PWs.1 to 3 were examined and Exs.A.1 to A.4 were got marked, and on behalf of the LAO, R.W.1, who is the LAO, was examined and Ex.B.1-Award proceedings was got marked.

4. Vide the impugned order, the reference Court, considering the evidence of P.Ws.1 and 2 and recitals in Ex.A1, enhanced the compensation of the land acquired from Rs.5,000/- per acre to

Rs.16,500/- per acre with all statutory benefits. Challenging the same, the LAO filed the present appeal.

5. Learned Government Pleader for Appeals (Telangana) contended that the enhancement of the compensation by the reference court is without any basis and there is no acceptable evidence to substantiate the enhancement, and that the lands covered under Ex.A1 are situated at far-off village to the land acquired in the case on hand and therefore, Ex.A1 cannot be taken as guidance for the purpose of fixing the proper market value, and hence, he prays to set aside the impugned order and decree.

6. Learned counsel for the respondent contends that the reference Court after considering the evidence available on record rightly awarded the compensation and that order needs no interference by this Court.

7. Now the point for consideration is whether the compensation fixed by the reference Court is just and proper?

8. Facts are not in dispute. As per Section 23 of the Act, in determining the amount of compensation to be awarded for the land acquired under this Act, the Court shall take into consideration *inter alia*, the market value of the land on the date of the publication of the Notification under Section 4, sub-section (1) of the Act. The Reference Court has to take normally into consideration the evidence as well as the sale transactions prior to the date of notification for the purpose of determination of market value of the lands acquired. The reference Court relied upon the oral evidence of P.Ws.1 and 2 and the recitals in Ex.A1. Ex.A1 is a registered sale deed dated 24.01.1987 whereunder P.W.2 purchased an extent of Ac.0.39 guntas of land in survey no.69 situated at Chalki village at a consideration of Rs.22,000/- per acre from one Prabhakar. The amount covered under Ex.A1 can safely be taken

into consideration for assessing the correct market value of the land. Though the acquired land and the land covered under Ex.A1 are situated in two different survey numbers, the fact remains that both the lands are situated in Chalki village. The date of Notification is 26.02.1991. The date of Ex.A1-registered sale deed is 24.01.1987. So, long prior to the acquisition initiation of acquisition proceedings, the transaction under Ex.A1 was entered into. P.W.2 purchased the land at Rs.22,000/- per acre under Ex.A1. Therefore, the transaction under Ex.A1 can safely be taken into consideration for the purpose of determination of the market value of the land.

9. The reference Court placed reliance on the consent award under Ex.A4 for fixing the market value of the land acquired at Rs.16,500/- per acre. But, the consent award cannot be taken as guidance for fixing the compensation since in the consent award, the claimant is not entitled to any other statutory benefits. If recitals in Ex.A1 are taken into consideration, market value of the land acquired is about Rs.22,000/- per acre, whereas the reference Court enhanced the same to Rs.16,500/- per acre. Considering the fact that value of the land acquired is more than Rs.16,500/- per acre, even as per the recitals in Ex.A1, granting of compensation at Rs.16,500/- per acre cannot be shown to be abnormal or on higher side or without there being any evidence. Therefore, the impugned order needs no interference by this Court.

10. Accordingly, the appeal is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

JUSTICE K.C. BHANU

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JUSTICE M.SEETHARAMA MURTI

Date: 19.01.2015
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