

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

HON'BLE SRI JUSTICE S. RAVI KUMAR

APPEAL SUIT No.704 of 2001

Date:16-07-2015

Between:

Nutalapati Ramavathamma

... Petitioner.

AND

Land Acquisition Officer,
Allur, Nellore District.

...Respondent.

The Court made the following :

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

APPEAL SUIT No.704 of 2001

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

This appeal is preferred against the order passed by the Subordinate Court, Kovvur in L.A.O.P.No.19/1993 dated 23-04-1996. The appellant herein is the claimant in the O.P. An extent of Acs.50-00 cents of land, belonging to the appellant, was determined as surplus by the Land Reforms Tribunal, Kavali in its order dated 27-02-1976. The appellant surrendered Acs.50-00 cents of land in Singampet Village of Allur Mandal to the Government, and preferred an appeal to the Land Reforms Appellate Tribunal, Nellore which, by its order dated 24-04-1978, re-determined the surplus holding of the appellant; and directed the Government to re-deliver an extent of Acs.21-18 cents to the appellant.

The Government preferred CRP No.4926/1978 against the order of the Land Reforms Appellate Tribunal which was dismissed by this Court by its order dated

13-07-1979. On the matter being carried in appeal by the Government, the SLP preferred against the order of this Court in CRP No.4926/1978 was dismissed by the Supreme Court on 20-11-1992.

While matters stood thus, the District Collector submitted proposals on 26-02-1991 to acquire an extent of Acs.21-18 guntas of land from the appellant in lieu of re-conveyance, as the lands had already been distributed to others in the year 1976 itself.

The Commissioner, Land Reforms, by his proceedings dated 04-03-1991, recommended acquisition. The Government, thereafter, approved the proposals for acquisition, and directed that acquisition proceedings be held on the basis that the notification was issued on 01-01-1975, and the market value of the subject land be determined at Rs.4,000/- per acre as on 1-1-1975. Thereafter, proceedings dated 1-8-1991 were issued by the Commissioner determining the compensation payable as Rs.2,75,033-59 ps. The appellant received the said amount under protest.

An award was passed by the Additional Revenue Divisional Officer on 20-11-91 and, on a reference being sought by the appellant, the matter was referred to the Court of the Subordinate Judge, Kovvur under Section 18 of the Land Acquisition Act. The said reference was registered as O.P.No.19/1993 and, by order dated

23-04-1996, the OP was allowed enhancing the market value of the land from Rs.4,000/- to Rs.15,000/- per acre. The Reference Court held that the notification under Section 4(1) must be determined to have been issued only after 1990, when the Land Acquisition Officer calculated the amount and passed the Award and, accordingly, the market value of the subject land was fixed at Rs.15,000/- per acre. In

addition thereto, the appellant was held entitled to additional compensation under Section 23 (1) (A) from 01-01-1975 till the date of taking possession, besides 30% solatium under Section 23 (2), and interest at 9% under Section 28 on the enhanced compensation for the first year, and thereafter at 15% till the date of payment.

As noted herein above, the award passed by the Land Acquisition Officer was on the basis that the date of the notification, for acquisition of the subject land, should be taken as 1-1-1975.

The Reference Court, however, changed the date from 1-1-1975 to a period after the year 1990, presumably because proposals were submitted by the District Collector to the Commissioner in February, 1991.

In **BALRAM CHANDRA v. STATE OF U.P.**^[1], the Supreme Court held:-

“.....Thus, it could be seen that the District Judge is enjoined to go into the objections raised by the claimants in making enquiry under Section 20 and to pass an award under Section 26 of the Act with reference to the objections raised by the claimants in respect of the area of the land or the amount of compensation. **It is, therefore, clear that the reference court cannot go behind the reference and give a declaration that the notification under Section 4(1) and declaration under Section 6 are null and void or illegal. His duty and power are confined vis-à-vis the provisions contained under Sections 11, 18 and 20 to 23 and he could not traverse beyond his power.....**” (emphasis supplied)

The reference court cannot go behind the reference, and change the date of the Section 4(1) notification, or declare the said notification to be null and void. The reference court has erred in changing the date of the Section 4 (1) notification from 1-1-1975, as prescribed by the authorities, to a period subsequent to 1990.

While the learned Government Pleader for Appeals would vehemently contend that the reference court erred in enhancing compensation from Rs.4,000/- to Rs.15,000/- per acre, as the market value of the subject land, as on 1-1-1975 was only Rs.4,000/-, the fact remains that the Government has not come up in appeal against the order

of the reference court. Even though we are satisfied that the reference court had erred in changing the date of the Section 4 (1) notification from 1975 to a period subsequent to 1990, the only order which can be passed is to dismiss the appeal. Consequently the order of the reference court, enhancing the market value of the land to Rs.15,000 per acre, and in extending statutory benefits to the appellant, is confirmed and the appeal is, accordingly, dismissed.

JUSTICE RAMESH RANGANATHAN

JUSTICE S. RAVI KUMAR

Date:16-07-2015

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[\[1\]](#) 1997 (3) SCC 723