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

L.A.A.S. No.1129 of 2011

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 05.01.2007, in Original Petition No.124 of 1996 passed by the learned Principal Senior Civil Judge, Anantapur, whereunder and whereby, the reference was answered in favour of the claimant holding that he is entitled for enhanced compensation of Rs.34,825/- with all statutory benefits. However, the claim of the claimant towards compensation for the site was negatived.

2. House bearing D.No.5/9 situated in S.No.170 of Mylarampalli village, Uravakonda Mandal of Anantapur District was acquired by the Government for the purpose of PABR Dam by issuing a notification under Section 4(1) of the Act on 11.02.1994. Due enquiry was conducted and the Land Acquisition Officer had passed an award bearing No.8 of 1995 on 09.06.1995 fixing the compensation for the acquired house at Rs.1,56,828/-.

3. Not satisfied with the market value fixed by the Land Acquisition Officer under the Award, the claimant made an application under Section 18 of the Act to refer the matter to the competent Civil court for determination of just and reasonable market value. Accordingly, the same was referred to the learned Principal Senior Civil Judge, Anantapur, which was taken on file as OP No.124 of 1996.

4. Before the reference Court, on behalf of the claimant, PWs.1 to 3 were examined and Exs.A.1 and A.2 were got marked and on behalf of

the Land Acquisition Officer, RW.1 was examined and Exs.B1 and B2 were got marked.

5. The reference Court held that the claimant could not produce any evidence to show that he is the owner of the site or that it was assigned to him by the Government and hence, in the absence of any valid title to the property, he is not entitled to any compensation towards the value of the site acquired. On the aspects of deductions of 10% towards contractors profit and 11% towards depreciation towards the value of the building, the reference Court, by placing reliance on the decision of the Hon'ble Supreme Court, had held that as the claimant could not produce any material to show that the valuation fixed by the Government is low, the value of the structure as estimated by the Government is legal and proper except the deductions made towards contractor's profit and depreciation. Aggrieved thereby, the claimant is before this Court.

6. We have heard the submissions of the learned counsel for the appellant/claimant and the learned Government Pleader for appeals.

7. The learned counsel for the appellant/claimant had contended that the reference court did not appreciate the evidence of PWs1 to 3 in proper perspective and had wrongly enhanced the compensation by awarding only a sum of Rs.34,825/-, though the appellant is entitled to more compensation; that the LAO ought to have taken the SSR for the year 1994-1995 since the subject notification was issued in 1994; and that the claimant is also entitled for the market value towards value of the house site even though the land is village poramboke. Hence, it is prayed that the compensation be enhanced.

8. Per contra, the learned Government Pleader for Appeals would contend that the claimant failed to produce the SSR relating to the year 1994-95 and therefore, the LAO determined the rates of the structures basing on the SSR for the year 1991-92 and that admittedly, the

Government is the owner of the property and therefore, the petitioner is not entitled for any compensation towards value of the house site. Hence, he prays to dismiss the appeal.

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

10. The facts are not in dispute. Coming to the aspect of the entitlement of the claimant for the escalation of prices as per the SSR at the relevant time, it is sought to be contended that the reference Court erred in determining the compensation placing reliance on the SSR for the year 1991-1992 alone and that it failed to take into consideration that the material cost of the house is increasing year to year and that therefore, the construction material cost at the relevant point of time has to be taken into consideration and escalation of price at the rate of at least 10% ought to have been awarded while determining the compensation.

11. We are not able to agree with the said submission of the learned counsel for the reason that the Government will fix the SSR and it will change the SSR whenever the need arises. Therefore, there is no need for the Government to notify the SSR for a particular year, if the cost of material for construction of houses is not increased. The claimant could not produce the SSR issued by the Government for the year 1994-95 for the purpose of determination of the market value of the structures. Therefore, in the absence of any evidence, the reference Court is left with no other option except taking into consideration the available evidence on record in determining the compensation.

12. Coming next to the aspect of market value of the land on the site acquired, admittedly, the site acquired is a Government poramboke and the claimant occupied and started residing in the land acquired by the

Government by making construction. No doubt, the claimant has been in possession and enjoyment of the property by constructing a house since a long time. That by itself does not entitle the claimant to claim title over the site in question. As a matter of fact, the Government is the title holder and therefore, the reference Court rightly disallowed the claim in respect of the compensation towards the value of the land acquired.

13. For the aforesaid reasons, we do not find any merit in any one of the contentions and the order impugned in this appeal does not call for any interference.

14. Accordingly, the Appeal is dismissed. There shall be no order as to costs.

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

K.C. BHANU, J

M. SEETHARAMA MURTI, J

02.02.2015
Vjl