THE HON'BLE SRI JUSTICE G.CHANDRAIAH
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

L.A.A.S.NOS.617, 625, 626, 791, 792, 793 and 867 of 2006 AND 125 OF 2007 AND 366 OF 2009.

COMMON JUDGMENT (Per the Hon'ble Sri Justice G.Chandraiah)

Heard Sri L.Prabhakar Reddy, Sri K.Sita Ram and Sri B.Vijaysen Reddy, learned counsel for the appellants – claimants and the learned Government Pleader for Appeals for the respondent – Land Acquisition Officer.

The lands of the claimants in different extents and survey numbers, situate in the villages of Ghatkesar, Anukhsapur and Kondapur, Rangareddy District, as mentioned in reference award, was acquired by the Government by issuing notification dated 27.3.2000 under Section 4(1) of the Land Acquisition Act, 1894 for the purpose of construction of petroleum oil lubricants pipe line Vijayawada – Secunderabad, the project of which was executed by M/s Hindustan Petroleum Corporation Limited. The Land Acquisition Officer by award dated 23.11.2000, by categorizing the lands as per belting system, awarded an amount of Rs.5,00,000/- per acre for the lands situate in Ghatkesar village, as they are abutting National High way and Rs.3,50,000/- per acre for the lands situate in Anukhsaur village, as these are lands abutting the main road and 1 k.m. away from Ghatkesar village and awarded an amount of Rs.2,50,000/- per acre for the lands situate in Kondapur village, as they are beyond 200 meters distance from the main road. Not being satisfied with the compensation awarded by the Land Acquisition Officer, the claimants sought a reference under Section 18 of the Act to the Civil Court i.e., Court of I Additional District Judge, Rangareddy District at L.B.Nagar Hyderabad. The reference court by common order and decree dated 10.3.2006, relying on Exs.A-1 and A-2, sale deeds as comparable sales, confirmed the compensation granted by the Land Acquisition Officer in respect of the lands situate in Ghatkesar village and further found the value fixed in respect of Ankushapur and Kondapur lands as discriminatory and eventually after deducting $1/3^{rd}$ towards development charges, awarded Rs.5,00,000/- for the acquired land up to 200 mts. abutting National Highway and at the rate of Rs.3,75,000/- per acre beyond 200 mts. range with all attendant benefits and also awarded additional amount under Section 23(1-A) of the Act at the rate of 12 per cent annum on the market value from 27.3.2000, the date of notification, to the date of the award dated 23.11.2000 or taking of possession on 14.6.2000, whichever is earlier; solatium at the rate of 30 per cent on the market value, as stipulated under Section 23(2) of the Act and compensation amount if not paid or deposited on or before taking possession of the lands, the claimants were entitled to 9 per cent per annum interest on such amount from the date of taking possession until it shall have been paid or deposited and if part or entire amount is not paid within one year from the date of possession, interest at the rate of 15 per cent per annum and after expiry of the said period on the amount as provided under Section 34 of the Act, was awarded. Claiming enhancement of the compensation, the claimants filed the respective appeals and as they arise out of the common order passed by the reference court, they are heard analogously and are being disposed of by this common judgment.

The learned counsel appearing for the claimants contended that the acquisition is a compulsory acquisition for the purpose of laying of petroleum oil lubricants pipe line from Vijayawada – Secunderabad. He stated that the lands are situate in developed area, which are situated abutting national high way and surrounded by mandal headquarters within a radius of 1 km.s and surrounded by many industries viz., NFC, ECIL, HCL, Srinidhi Resorts and various government and semi-government societies, engineering colleges, hospitals and hence, deduction of 1/3rd towards developmental charges is unwarranted and at the most, deduction ought to have been 15 per cent. In support of this contention, the learned counsel relied on the judgment reported in LAND ACQUISITION OFFICER AND REVENUE DIVISIONAL OFFICER v. RAMANJULU[1]

They stated that the trial court made discrimination in awarding compensation to the lands. The lands are situated in one block, and they are situated in an, area, having substantial potential for development of residential and commercial purposes and in the same vicinity and district, hence, categorization made is not justified and the lands ought to have been treated uniformly and belting system adopted by the trial court, for awarding different compensations, is not justified. In support of these contention, the learned counsel relied on the judgments reported in ASHRAFI v. STATE OF HARYANA[2], KASHMIR SINGH v. STATE OF HARYANA[3], LAND ACQUISITION OFFICER, REVENUE DIVISIONAL OFFICER v. L.KAMALAMMA[4] and LILA GHOSH v. STATE OF W.B.[5]. The learned counsel further submitted that the there is no dispute that the land is situated in a substantially potential area and the claimants have relied on Exs.A-1 to A-7 sale deeds and Exs.A-8 to A-11 maps with regard to location of lands. Since, it is a compulsory acquisition, the claimants are entitled for highest sales relied on by them and not the average among sale deeds. In support of this contention, the learned counsel relied on the judgment of the Apex Court in MEHRAWAL KHEWAJI TRUST v. STATE OF PUNJAB[6]. In the present case, the claimants relied on Ex.A-4, which is a bona fide sale transaction dated 31.12.1999, which is prior to the Section 4(1) notification dated 27.3.2000, wherein the land in the vicinity was sold at rate of Rs.12,00,000/- per acre and to dispute the genuineness of the transaction, the Land Acquisition Officer has not lead any rebuttal evidence. Therefore, the claimants are entitled for compensation by taking Ex.A-4 sale deed into consideration. In supported of this contention, the learned counsel relied on the judgment of the Apex Court in KANWAR SINGH v. UNION OF INDIA[7]. They submitted that though the trial court noted that this piece of land in Sy.No.241 was not part of sketch Ex.A-8 filed by the claimants, it is situate opposite side of the National High way. Therefore, the claimants are entitled for compensation based on Ex.A-4. With these submissions, the learned counsel sought to enhance the compensation awarded by the reference court.

On the other hand, the learned Government Pleader for Assignment supporting the impugned common order sought to dismiss the appeals.

From the material on record, there is no dispute that the lands are situate in three contiguous villages of Ghatkesar, Anukhsapur and Kondapur villages. The lands in Ghatkesar are abutting the National High Way and within 200 meters range. The lands in Ankushapur and Kondapur villages are beyond 200 mts. range of the National High Way. There is also no dispute that the lands are situate abutting the National Highway, which is surrounded by Mandal Headquarters within a radius of 1 kms and also surrounded by many industries i.e., NFC, ECIL, HCL, Srinidhi Resorts and various government, semi-governmental housing societies, Engineering College, Hospitals etc and there is a great demand for commercial as well as the residential purposes. While fixing the market value of the acquired land, the Apex Court in SABHJA MOHAMMED YUSUF ABDUL HAMID MULLA v. SPECIAL LAND ACQUISITION OFFICER[8] held as under:

> "13. We have considered the respective arguments and carefully perused the record. It is settled law that while fixing market value of the acquired land, the Land Acquisition Collector is required to keep in mind the following factors:
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> (i) Existing geographical situation of the land.
> (ii) Existing use of the land.
> (iii) Already available advantages, like proximity to National or State Highway or road and/or developed area.
> (iv) Market value of other land situated in the same locality/village/area of adjacent or very near the acquired land."

Further in the present case, the lands, as per maps under Exs.A-8, A-9 and A-10 are situate in the same block and are abutting national highway, surrounded by Mandal Headquarters within a radius of 1 kms and are surrounded by many industries i.e., NFC, ECIL, HCLC, Srinidhi resorts and various government, semi-governmental offices, housing societies, engineering colleges, hospitals. The Land Acquisition Officer has also noted that there is housing activity in the vicinity. But the trial court has made categorization of these lands and awarded different compensations based on their distance from National High Way, by adopting belting method. In view of these circumstances, as the lands are situated in one block and in the same district abutting national high way within a radius of 200 metres and situated in a substantially potential for both commercial and housing purposes, in our considered view, the trial court is not justified in awarding two sets of compensation to these lands. The Apex Court in LAND ACQUISITION OFFICER, REVENUE DIVISIONAL OFFICER v. L.KAMALAMMA (4 supra) held that when the lands are having potentiality of being developed into an urban land, the Land Acquisition Officer is not justified in awarding higher compensation to lands abutting main road and lesser compensation to lands lying on the interior side. The relevant portion is as under:

> "7. The argument advanced by Shri Nageswara Rao that the classification by the Land Acquisition Officer was in order and ought not have been interfered with by the reference court or the High Court does not appeal to us. When a land is acquired which has the potentiality of being developed into an urban land, merely because some portion of it abuts main road, higher rate of compensation should be paid while in respect of the lands on the interior side it should be at lower rate may not stand to reason because when sites are formed those abutting the main road may have its advantages as well as disadvantages. Many a discerning customer may prefer to stay in the interior and far away from the main road and may be willing to pay a reasonable higher price for that site. One cannot rely on the mere possibility so as to indulge in a meticulous exercise of classification of the land as was done by the Land Acquisition Officer when the entire land was acquired in one block and therefore classification of the same into different categories does not stand to reason."

In the present case, as noted by the trial court, though large extent of land was acquired, it has substantial potential and are situated in an area surround by many industries, housing societies, colleges, hospitals etc. Therefore, in our considered view, the court below ought to have awarded uniform rate of compensation by determining the market value of the acquired land.

The claimants have relied on Exs.A-1 to A-7 sale deeds as comparable sales. Their claim is that under Ex.A-4 sale deed dated 31.12.1999 an extern of Acs.0-10 guntas in Sy.No.241 part was sold at the rate of Rs.12,00,000/- per acre and the said sale deed ought to have been taken into consideration for awarding compensation. Relying on the judgments of the Apex Court in Kanwar Singh's case (7 supra), the learned counsel contended that the highest among the comparable sales, which is a bona fide transaction, has to be taken into consideration. For better appreciation, the relevant portion of the said judgment of the Apex Court is extracted as under:

> "17. It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied that it is genral rule that the highest of the exemplars, if it is satisfied that it is a bona fide transaction, has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation."

Further, Ex.A-4, is prior to the notification dated 27.3.2000. Before the reference court, the Land Acquisition Officer has not lead any rebuttal evidence to show that it is not a bona fide transaction. The trial court observing that as the land in Ex.A-4 is not found in Ex.A-8 sketch relied on by the claimants, eschewed the said document. However, the trial court observed that the land in Ex.A-4 is located on the opposite side of the National High Way. When the land, which is situated opposite to the acquired lands has fetched an amount of Rs.12,00,000/- per acre and when the said transaction was not proved to be a sham transaction, as no rebuttal evidence is lead, in our considered view, such transaction, which represents highest sales among the sale deeds relied on by the claimants, have to be taken into consideration to arrive at the market value of the acquired lands. Therefore, we are inclined to take Ex.A-4 into consideration to fix the appropriate value for the acquired lands and the observation of the reference court for eschewing the said document, is rejected.

For all the acquired lands, taking into consideration Ex.A-4, we are inclined to fix the market value of compensation. The said transaction is 31.12.1999 i.e., just about three months prior to the notification dated 27.3.2000 and, therefore, we are not inclined to give further escalation, as sought by the claimants.

The next issue is with regard to deduction of developmental charges on the amount arrived at. Before the reference court, the claimants got examined P.Ws.1 to 9 to prove that the acquired land is in a highly developed area, merely 20 kms. away from Hyderabad and there are co-operative Housing Societies, Sreenidhi resorts nearby, other housing development activities, engineering colleges, hospitals, Brooke Bond India Industry and that the acquired land is about 2 ½ kms from Ghatkesar on the National Highway. The Land Acquisition Officer has also observed that housing activity was going on in the vicinity. As already noted above, there is no rebuttal evidence on behalf of the Land Acquisition Officer to disprove the claim of the claimants. These circumstances show that the land has substantial potential both for commercial and residential purposes. In these facts and circumstances, in our considered view, deduction of 30 per cent towards developmental charges from the amount arrived at on market value, would meet the ends of justice. Accordingly, we are inclined to fix the compensation for all the acquired lands of claimants/appellants uniformly at the rate of Rs.8,40,000/- per acre.

For the foregoing reasons, the claimants/appellants are awarded compensation at the rate of Rs.8,40,000/- per acre for all the acquired lands situated in Ghatkesar, Ankushapur and Kondapur pursuant to the Section 4(1) notification dated 27.3.2000, with all the attendant benefits and additional amounts as awarded by the reference court.

The appeals are accordingly allowed. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

G.CHANDRAIAH,J

M.S.K.JAISWAL,J

DATE:1.5.2015

AVS

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[1] (2005)9 SCC 594

[2] (2013)5 SCC 527

[3] (2014)2 SCC 165

[4] (1998)2 SCC 385

[5] (2004)9 SCC 337

[6] (2012)5 SCC 432

[7] (1998)8 SCC 136

[8] AIR 2012 SC 2709