

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.194 OF 2007
AND
CROSS OBJECTIONS (SR) No.6890 OF 2007

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

The appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act'), and the cross-objections, under Order XLI Rule 22 of the Code of Civil Procedure, 1908 are filed challenging the Order and decree, dated 25.09.2006 in Land Acquisition Original Petition No.2039 of 1991 passed by the Senior Civil Judge, Nandikotkur.

2. Kallam land to an extent of Ac.0.12 cents in Sy.No.569/1 and the structures i.e., house (hut) in an extent of Ac.0.03 cents in Sy.No.4/96A situated at Chabolu village, Nandikotkur Taluk were acquired by the Government for public purpose of Srisailam Hydro Electric Project by issuing Notification under Section 4(1) of the Act duly publishing in the Gazette on 31.01.1974. After conducting due enquiry, the Land Acquisition Officer (LAO) passed an award dated 23.02.1979 in Award No.30 of 1979 fixing the market value of the land at Rs.2,500/- per acre and Rs.16,658/- for structures. Having not been satisfied with the said fixation or determination, the claimants filed an application under Section 18 of the Act to the LAO to refer the matter to the Reference Court for determination of proper market value of the acquired land. On reference, the same was taken on file as L.A.O.P.No.2039 of 1991 on the file of the Senior Civil Judge, Nandikotkur.

3. On behalf of the Referring Officer, PW.1 was examined and Exs.A.1 to A.6 were got marked. On behalf of the claimants, RWs.1 to 6 were examined and Exs.X.1 to X.3 were got marked.

4. The reference Court after considering the evidence on record enhanced the market value two times more than the value fixed by the LAO in respect of the house and three times more than the value fixed by the LAO in respect of Kallam land along with other statutory benefits. Challenging the same, the present appeal is filed by the Government, whereas the claimants filed cross objections.

5. Learned Government Pleader for Appeals contended that Ex.X.1 cannot be taken as comparable sale transaction; that though it is long prior to the date of notification, there is no evidence to show that the acquired land and the land covered under Ex.X.1 are similar in all respects; that none of the witnesses stated that Ex.X.1 is a comparable sale for determination of the market value of the acquired land and therefore, he prays to allow the appeal.

6. On the other hand, learned counsel for the respondents contended that Ex.X.1 can safely be taken as a comparable sale for the purpose of determining the market value of the acquired land; that the distance between the land covered under Ex.X.1 and the land covered under the present acquisition is about one mile; that the Ganapuram is Hamlet of Chabolu village; that there is evidence to show that land covered under Ex.X.1 and the acquired land are similar in nature and therefore, he prays to enhance the compensation.

7. The reference Court having given the consideration relating to Ex.X.1 recorded reasons stating that there was no evidence about the distance between the claimants' land and the land covered under Ex.X.1 and nature of the property under Ex.X.1 and the land under acquisition are not similar; that there was no pleading and evidence to show that Ex.X.1 can be taken as a comparable sale transaction and the same was not spoken to by any one of the claimants or the attesor of Ex.X.1. Therefore, no reliance has been placed by the trial Court on Ex.X.1 and hence, those reasons cannot be said to be perverse. The findings of the trial court are based upon proper appreciation of evidence available on record. Ex.X.2 is certified copy of judgment in Appeal No.2650 of 1987 on the file of this Court, whereunder the value of the Kallam land was enhanced by three times of the value awarded in Original Petition No.146 of 1981. The market value of the acquired house site is fixed at Rs.3,000/- per cent and the claimant therein was entitled to the compensation of Rs.45,000/-. Considering the fact that the Ganapuram is Hamlet of Chabolu village, Ex.X.2-certified copy of judgment in Appeal No.2650 of 1987 can safely be taken as guidance for fixing the market value of the acquired land in view of the fact that the judgment, dated 26.07.1984 in O.P.No.146 of 1981 on the file of the II Additional Subordinate Judge's Court, Kurnool was confirmed by this Court in Appeal No.2650 of 1987 on 09.12.1988. Therefore, the trial Court placed reliance on Ex.X.2 and fixed the proper and appropriate market value. Hence, it is not a fit case to enhance the market value of the land.

8. Accordingly, the appeal and the cross-objections are

dismissed. Consequently, Miscellaneous Petitions, if any, pending shall stand closed. There shall be no order as to costs.

JUSTICE K.C. BHANU

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JUSTICE M.SEETHARAMA MURTI

Date:05.02.2015
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