

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

LAND ACQUISITION APPEAL SUIT Nos.659 AND 830 OF 2006

COMMON JUDGMENT: (per Sri Justice M.Seetharama Murti)

The L.A.A.S.No.659 of 2006 filed by the claimant and the L.A.A.S.No.830 of 2006 preferred by the Government are directed against the judgment dated 20.07.2006 in Original Petition No.22 of 1999 passed by the learned Senior Civil Judge, Bodhan.

2. The basic facts necessary for consideration, in brief, are as follows:-

Lands of the claimant in an extent of Acs.8-19 guntas in survey Nos.890, 891, 892 and 893 of Wajidnagar Village were acquired by issuing draft notification on 05.02.1996 for providing house sites to weaker sections of the Society. After due enquiry, an award was passed on 09.02.1999 determining the market value of the lands at the rate of Rs.20,000/- per acre. Having been aggrieved of the said award, the claimant had filed a petition under Section 18 of the Land Acquisition Act, 1894 requesting to refer the matter to a Civil Court for determination of just and proper compensation. On such reference, the aforementioned O.P. No.22 of 1999 was taken on the file of the court of the learned Senior Civil Judge, Bodhan. Before the reference Court, the claimant and a beneficiary of the award under exhibit A2 were examined as PWs 1 and 2 and exhibits A1 to A3 were marked. On the side of the Government, the Revenue Divisional Officer concerned was examined as RW1 and exhibits B1 and B2 were marked. On consideration of the evidence on record, the reference court had determined the compensation for the acquired land at Rs.30,000/- per acre. Having not been satisfied with the said compensation awarded by the reference Court, the claimant had preferred L.A.A.S.No.659 of 2006. Whereas, the Government had filed

L.A.A.S.No.830 of 2006 contending *inter alia* that the said compensation is high and excessive.

3. We have heard the submissions of learned counsel for the claimant/appellant in L.A.A.S.No.659 of 2006 and the learned Government Pleader for Appeals. We have perused the material record.

4. The learned counsel for the claimant having placed reliance on exhibits A1 to A3 had contended that the market value fixed by the court below based on exhibit B1-award is not just and proper and that the compensation awarded is inadequate and unreasonable and that that the claimant is entitled to a compensation of Rs.60,000/- per acre as per the restricted claim made in the claimant's appeal and that the acquired lands are SCW lands and that therefore, the subject acquired lands are of higher potential and value and that the said lands are situated adjacent to the main road and that the lands covered by exhibits A2 and A3 which are of different villages are situated at a distance of only 2 kilometers from the subject lands and that the compensation shall be determined at the rate of Rs.50,000/- per acre, in any view of the matter, and that therefore, the claimant in the present case is entitled to compensation at the said rate. He prayed for allowing the appeal of the claimant and dismissing the appeal of the State. On the other hand, the learned Government Pleader for Appeals had contended that the amount fixed under exhibit B1 is reasonable and adequate and that the lands covered by exhibits A2 and A3 are of different villages and that they are not comparable to the subject lands and that the said lands are situated far away from Maddela cheruvu Village and that the claimant had failed to discharge the burden and prove that the lands covered under exhibits A2 and A3 are within the zone of consideration and that in the absence of any proof in regard to the entitlement for higher compensation, the Court below ought not to have determined the market value at the enhanced value of Rs.30,000/- per acre. The learned Government Pleader had prayed for dismissing the appeal of the claimant and allowing the appeal of the State.

5. Now the points for determination are – ‘whether the compensation determined at the rate of Rs.30,000/- per acre by the Court below is not just and fair?’ And, if so, ‘what is the just and fair compensation to be awarded to the claimant in respect of the subject lands?’

6. **POINTS:**

The introductory facts are already stated supra. We have given earnest consideration to the facts, the evidence and the submissions of both the sides. There is no dispute about the facts which are already stated in the introductory paragraphs. Exhibits A2 and A3 were relied upon by the claimant to show that he is entitled to the compensation at the enhanced rate of Rs.60,000/- per acre. Exhibits A2 and A3 are the certified copies of the orders in O.P.No.24 of 1997 and O.P.No.26 of 1997. The lands covered under exhibits A2 and A3 are dry lands situated in Bollakpally Village and Maddela Cheruvu Village respectively and for the said lands, the market value was determined at Rs.55,000/- and Rs.50,000/- per acre respectively and statutory benefits were also awarded. A perusal of the evidence of RW1 would lay bare that the village Wajid Nagar is having all facilities and that the acquired lands are abutting the main road leading from Banswada to Bichkunda and is at a distance of 2 KMs from Maddelacheruvu. The fact that the acquired land is at such a distance from the said cheruvu is also evident from exhibit B2 sketch. The evidence brought on record would also show that while enhancing the compensation to the acquired land of PW2, the court had made a reference in exhibit A3 order to the order under exhibit A2. Thus, the lands under exhibits A2 and A3 are exemplar to one another is borne out by record. The present acquired lands are situated near the village and the distance between the lands covered by exhibits A2 and A3 and the subject lands is only two kilometers. While the lands under exhibits A2 and A3 are dry lands, the evidence of PW2 is to the effect that the subject lands are single crop wet lands and are having water facility and that institutions like high schools etcetera are situated close to the acquired lands and that there

is also transport facility to the village. Evidence of RW1 and PW2 also reveals that the village Wajidnagar is a Medium Gram Panchayat and that there is a Primary Agricultural Cooperative Society while the village of PW2 is not having such facilities. As already noted, the fact that the acquired lands are abutting the main road is an added advantage. Thus, on a consideration of the evidence on record, we are of the considered view that the acquired lands are by and large similar in nature and quality to the lands under exhibits A2 and A3 though the said lands are of different villages situate within a radius of two kilometers and that therefore, the lands are comparable in many respects. The fact remains that the lands are acquired for providing house sites to weaker sections is suggestive of the fact that the lands are fit for use as house sites. The subject lands, which are abutting the PWD inter State main road and are surrounded by school and areas in which building activity had already started, are capable of being put to use in immediate or near future as house sites and are therefore, having a potential value. Therefore, in the well considered view of this Court the market value of the subject lands can be determined at Rs.50,000/- per acre. The points are accordingly answered.

7. In the result, the L.A.A.S.No.659 of 2006 filed by the claimant is allowed in-part enhancing the compensation from Rs.30,000/- per acre to Rs.50,000/- per acre. As a sequel to the said finding, the appeal filed by the Government is dismissed. It is needless to mention that the claimant is entitled to all the statutory benefits. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these two appeals shall stand closed.

K.C.BHANU, J

M.SEETHARAMA MURTI, J

FEBRUARY 10, 2015

YVL

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

-
-
-

-
LAND ACQUISITION APPEAL SUIT Nos.659 AND 830 OF 2006

-
DATE: 10.02.2015

YVL