THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

APPEAL SUIT No. 3637 OF 2003

J U D G M E N T: ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

This is an Appeal preferred under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act') by the Revenue Divisional Officer –cum- Land Acquisition Officer, Penukonda, Anantapur District, calling in question the correctness of the order dated 31.08.2000 passed by the learned Additional District Judge, Hindupur in O.P. No. 125 of 1998.

Land of an extent of Acs.6.32 cents lying in Survey No. 688 of Penukonda Town was acquired by the State for the purpose of providing house sites to weaker sections. By an Award dated 05.05.1998, the Land Acquisition Officer has fixed the market value at Rs.70,000/- per acre. Dissatisfied by this fixation of a meager amount as market value, the claimant sought for a reference under Section 18 of the Act and that is how the matter came to be referred to the Court which was numbered as O.P.No. 125 of 1998. The claimant claimed the value at Rs.7,50,000/- per acre.

In support of his claim, apart from examining himself as P.W.1, the claimant has also examined two other witnesses and also got marked Ex.A1, an extract of a registered sale deed relating to land lying in Survey No. 671 of Penukonda Town. Rough plan reflecting the location of the land acquired lying in Survey No. 688 and the various adjoining lands was also got marked as Ex.A2. On behalf of the Land Acquisition Officer, the Senior Assistant working in his Office was examined as R.W.1 and the combined plan relating to Survey No. 688 of Penukonda was marked as Ex.B1.

Fortunately, there was not much dispute or disparity between the rough plan marked as Ex.A2 and the combined plan got marked as Ex.B1. Ex.A2 has also reflected various other institutions existing in the proximate closeness to the land acquired. Ex.A.1, as was already referred to supra, concerns alienation of land lying in Survey No. 671. Lands in Survey No. 671 are lying on the Northern side of the National Highway connecting Penukonda Town and Madakasira Town, whereas the land now acquired in Survey No. 688 is lying on the opposite side of the same road i.e. on its Southern side, thus, lands lying in Survey Nos. 671 and 688 are separated by the National Highway.

The claimant's case rested heavily upon the sale transaction covered by Ex.A1. When we have perused Ex.A1, we realized that it concerns sale of land of an extent of 148.5 square yards with a constructed house thereon. It is quite probable that any purchaser would weigh the advantages of buying an already constructed house and consequently, may not be hesitating to pay for it a little more than what the true market value would reflect. Therefore, while taking into account and consideration transactions of sale concerning house sites with existing houses thereon, the aforementioned factor has got to be borne in mind.

It is hardly in doubt that Penukonda Town is one of the most important towns in Anantapur District of Andhra Pradesh and it has an added advantage of historical importance and consequently, keeps attracting tourists from far and wide. Hence, Penukonda Town is considered to be an expensive town going by the normal standards of living that can be found compared to small-size towns. This apart, the land was acquired for providing house sites to the weaker sections as the land has got the potentiality to be converted into a housing project. In proximate closeness to this land, which is acquired, Hindupur Silk Factory was lying in Survey No. 679, while in the adjoining premises, a plastic item manufacturing factory was lying. While these two aforesaid factories are on the Northern side of the road, opposite to them, on the Southern side of the road, an oil mill was lying in Survey No. 682 and at a little distance away, the entire land was converted into residential houses. Therefore, the finding of fact recorded by the reference Court that the land lying in Survey No. 688, adjoining the National Highway, has great potentiality for development as a housing colony does not warrant or require modification or alteration at our hands.

It would also be important for us to notice that it has been clearly demonstrated that the Revenue Divisional Officer, acting as the Land Acquisition Officer, when he has undertaken an inspection of the locality for arriving at a preliminary valuation of the land, has been guided by the local Mandal Revenue Officer setting-forth that the land value is around Rs.1 lac per acre, but however, he went by the sale transaction of a nearby land, which took place in 1993, more than three years prior to the date of the notification issued under Section 4(1) of the Act and then, preferred to adopt the market value reflected in such a transaction and considered fixing the market value at Rs.80,000/- per acre. However, the Collector has also undertaken the inspection of the land in question and suggested to the Land Acquisition Officer to consider fixing the market value at Rs.70,000/- per acre and that is the reason why the Land Acquisition Officer reconsidered the matter and proposed to fix the market value at Rs.70,000/- per acre. It is obvious that the Collector has taken into account the possibility of enhancement of the market value by the reference Court and hence, suggested to fix the market value which is less than the market value of a sale transaction that reflected Rs.80,000/- per acre nearly three years prior to the date of acquisition itself.

Be that as it may, the reference Court has considered all relevant factors and also the legal principles on the subject very appropriately and arrived at the market value at Rs.1,50,000/- per acre. Since the lands in question are acquired for developing into a housing project for weaker sections, the reference Court has straight away deducted one-third of the value, which would normally be consumed for providing roads and other basic infrastructural facilities. In fact, the Director of Town and Country Planning, we may add, before approving any lay out of land, requires 30% of the total extent of land to be left out either covered by roads and/or other amenities, which are required to be provided for a residential colony. Therefore, the approach of the reference Court to deduct one-third of the value is on the correct lines.

In view of our approval of the reasoning assigned by the reference Court, we do not find any justifiable reason warranting our interference with the said order of fixation of the market value and accordingly, we dismiss this Appeal, but however, without costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

ANIS, J

04th November 2015

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