

*** THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

AND

THE HON'BLE SMT JUSTICE ANIS

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+ APPEAL SUIT No.2027 OF 2002

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% Dated 18.11.2015

Ramdharmma Reddy

S/o Ganga Reddy

R/o Thorikonda Village, Jakranpally Mandal

Nizamabad District Petitioner

Vs.

\$ The Land Acquisition Officer

(Revenue Divisional Officer)

Nizamabad Respondent

! Counsel for the petitioner : Sri N. Sridhar Reddy

^ Counsel for the respondent : Government Pleader for Appeals (TG)

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? Cases referred

1. (1992) 4 SCC 659
2. (2012) 5 SCC 432

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

APPEAL SUIT No.2027 of 2002

JUDGMENT: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This appeal has been preferred under Section 54 of the Land Acquisition Act (for short 'the Act') by the claimant, not being satisfied by the enhanced amount of compensation ordered to be paid by the Reference Court in O.P.No.281 of 1998.

With a view to provide house sites to the weaker sections of the society, during the year 1995-1996 certain lands situate in Thorlikonda Village of Jakranpally Mandal, Nizamabad District, have been notified for compulsory acquisition and accordingly, notification under Sub Section 1 of Section 4 of the Act was got gazetted on 22.06.1996. The land of total extent of Ac.8.25 guntas has been

acquired, out of this the claimant's land of an extent of Ac.3.00 guntas has also been acquired. The Land Acquisition Officer passed an award fixing the market value at Rs.18,000/- per acre and thus, paid an amount of Rs.77,625/- as compensation. It is in those set of circumstances, when the appellant herein sought for compensation @ Rs.150/- per square yard, the reference came to be made under Section 18 of the Act for determination of the civil Court, though the claim before the RDO appears to be Rs.1,00,000/- per acre. Entertaining the reference, the civil Court has arrived at a finding that the value of the land is liable to be fixed at Rs.20/- per square yard and since 1/4th has to be deducted towards developmental purposes, the value has been worked out at Rs.15 per square yard and on that basis, the compensation arrived at duly allowing 12% per annum as additional market value in terms of Section 23(1-A) of the Act and 30% solatium and interest for one year from date of taking compensation @ 9% and thereafter at 15%.

Sri N.Sridhar Reddy, learned counsel for the appellant, would submit that in **Ranjit Singh Vs. Union Territory of Chandigarh and Mehrawal Khewaji Trust (Registered) Vs. State of Punjab**, the Supreme Court has allowed the formula of quantitative improvement in payment of compensation by allowing 10 to 15% of value addition for the time gap between the previous notification and the present notification. Sri N.Sridhar Reddy has also pointed out to us that when two different appeals A.S.Nos.2028/2002 and 1236/2003 concerning the very same notification have been considered by another Division Bench of this Court, on 09.09.2015, the said Division Bench by following the principles set out in the aforesaid judgments has arrived at a finding that the market value of the land should be worked out at Rs.33/- per square yard and accordingly, concluded the issue.

The learned Government Pleader while ageing that the another Division Bench dealing with aforementioned A.S.Nos.2028/2002 and 1236/2003 has taken the view that the market value should be fixed at Rs.33/- per square yard, but however, would submit that the concept of incremental addition to the value of the land depends upon the contemporary developmental activities that have taken place there around and if there are no developments, in the vicinity of the land acquired, the theory of quantum improvement would not get attracted.

Though we are thoroughly conscious that when vast extents of land, which are not developed and divided into layouts, are acquired by the State, such lands

would not be straightaway divided into housing/commercial/industrial plots. The lands need some improvements to be made such as compaction, improving its level and bringing it at least at par with the existing road level and also provide for other basic civic amenities such as road, electricity, drainage, water pipelines and pavements and community facilities etc. Consequently, depending upon the location of the land namely rural, semi urban and urban, certain percentage of the land would get consumed towards these basic civic amenities and that would be ranging between 30-40%. Once those civic amenities are provided, the land covered by such facilities become inalienable by the original land owner. In other words, only the remaining extent of land ranging between 60-70% of the total extent of land owned originally would become available for sale as individual plots. This apart, the aforementioned developmental activities including compaction and other provisions would nearly cost 50-60% of the land cost itself. So without undertaking any such exercises, the claimants are not liable to secure compensation on the basis of the value of the land per square yard.

But, however, when once another Division Bench dealing with the land, which is also notified along with the land of the present appellant and has fixed the value of such land at Rs.33/- per square yard, we are bound by such decision of another coordinate Bench. All the more so, when learned Judges of the coordinate Bench have based their reasoning upon the judgment rendered by the Supreme Court in **Ranjit Singh and Mehrawal Khewaji's cases referred supra**. Therefore, we reserve the notion which we have set forth today for proper debate and consideration in another case and prefer to follow the judgment rendered by the coordinate Bench in A.S.Nos.2028 of 2002 and 1236 of 2003 and also fix the market value at Rs.33/- per square yard even in this case. As otherwise, we will be failing to render justice to one claimant covered by the same notification while another claimant gets paid compensation at Rs.33/- per square yard.

Hence, this appeal stands allowed to the extent of redetermining the compensation payable to the appellant herein by working out the value at Rs.33/- per square yard.

Consequently, miscellaneous petitions, if any, pending shall also stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

18.11.2015

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