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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.717 OF 2006

JUDGMENT:(per Hon'ble Sri Justice M.Seetharama Murti)

This is an appeal filed by the claimant assailing the order, dated 19.06.2006 of the learned Principal Senior Civil Judge, Vijayawada passed in Original Petition No.10 of 2002.

2. We have heard the submissions of the learned counsel for the appellant/claimant and the learned Government Pleader appearing for the respondent/State. We have perused the material record.

3. The basic facts, in brief, are as follows: - 'Land admeasuring an extent of Ac.0-39 cents in R.S.No.441/3B situated at Kuntamukkala village belonging to the claimant was acquired by the Government for laying a road from Mylavaram to Vellaturu via Kuntamukkala village. After award enquiry was conducted, an amount of Rs.48,000/- per acre was fixed towards market value of the said land and a compensation of Rs.18,720/- with other statutory benefits was awarded to the claimant.'

4. Having not been satisfied with the amount awarded, the claimant made a request to make a reference under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') to the Civil Court by contending that the compensation is inadequate and less than the market value.

5. Before the Reference Court, on behalf of the claimant PWs.1 and 2 were examined and exhibit A1 was marked. On behalf of the referring Officer, RW1 was examined and exhibit B1 was marked. On merits, the

Reference Court dismissed the Original Petition directing both parties to bear their respective costs. Having been aggrieved of the same, the claimant had preferred this appeal.

6. The only question for consideration is:

Whether the compensation determined by the Land Acquisition Officer (LAO) for the acquired land is just and proper?

7. Learned counsel for the claimant had contended that out of Acs.2.00 cents of land Ac.0.39 cents of land was acquired by the Government, therefore, because of the acquisition of Acs.0.39 cents in the middle of the land, the land of the claimant was severed into two parts and that the claimant is unable to cultivate the remaining land. He had further contended that exhibit A1 sale deed marked on behalf of the claimant sufficiently established that the value of the acquired land is more than the value determined by the LAO and that the reference Court went wrong in considering that the value of the acquired land is not more than Rs.48,000/- per acre and in not taking into consideration the value of the acquired land at about Rs.2,00,000/- per acre and that the reference Court ought to have taken into consideration the transaction under exhibit A1 document, wherein the value of Ac.0.10 $\frac{3}{4}$ cents was shown as Rs.21,000/- and ought to have granted compensation of Rs.78,000/- as claimed by the claimant.

8. On the other hand, the learned Government Pleader for Appeals contended that the document under exhibit A1 is a post-notification sale made on 24.02.2000 and that therefore, the transaction under the said document is not comparable and that the LAO had not only taken into consideration the appropriate market value, but also the aspect of the severance of land on account of acquisition of Ac.0.39 cents out of Acs.2.00 cents of land while determining the compensation and that there is no merit in this appeal and that the appeal is liable to be

dismissed being devoid of merit.

9. There is no dispute about the facts. Except exhibiting the exhibit A1 sale deed, no other document showing a transaction which is a comparable sale was filed. As rightly contended by the learned Government Pleader for Appeals, exhibit A1 deals with only a small extent of Ac.0.10 $\frac{3}{4}$ cents of land and that too it is a post-notification sale dated 24.02.2000. Therefore, the transaction under it could not be safely relied upon and cannot be taken as a guide for determining the compensation for the acquired land. Therefore, we do not find any reason to interfere with the finding of the reference Court in rejecting the said document on the ground that the said document does not depict an exemplar sale transaction.

10. The next contention of the claimant is that because of acquisition of Ac.0.39 cents out of Acs.2.00 cents of land, the remaining land of the claimant became useless and he is unable to carry out agricultural operations in the remaining land. On that aspect, there is no evidence adduced. No evidence whatsoever was brought on record as to what are the difficulties being faced in cultivating the remaining land. There is no evidence in regard to deprivation of access or water source to the land not acquired on account of severance due to the acquisition. Even PW.1 did not say anything in his evidence on the said aspect of severance and it is not borne out by the record as to what are the two remaining extents of land on the either side of the acquired land, in case the acquired land severed the total land of the claimant into two bits. There is no evidence as to whether the acquired land had severed the total land into two bits viz., one big bit and one small bit. In case the acquired land is only on one side of the total extent of the land of the claimant, then, there will not be any severance of the remaining land into two bits. The land is admittedly acquired for laying a road. In the absence of any evidence, on mere oral assertions, the contention that because of severance of

land the claimant is unable to cultivate the remaining extent/s of land cannot be accepted. Since the LAO has taken into consideration the relevant aspects and determined the market value of the acquired land as per the evidence available on record, we see no reason to interfere with the order of the reference Court and to increase the market value of the said land.

11. Viewed thus, we find that the appeal is devoid of merit.

12. In the result, the appeal is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

JUSTICE K.C. BHANU

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JUSTICE M.SEETHARAMA MURTI

Date:28.01.2015
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