

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

L.A.A.S.No. 414 OF 2009

ORDER: *(per Hon'ble Sri Justice Ramesh Ranganathan)*

This appeal under Section 54 of the Land Acquisition Act, 1894 ("the Act" for short), is preferred against the order passed by the Learned Senior Civil Judge, Huzurabad in O.P.No. 54 of 2000 dated 23-01-2006.

An extent of Ac. 5.04 guntas of land, in S.No. 364 of Dhacharam Village, was acquired for providing house sites to dalits of the said village. The Land Acquisition Officer passed an award on 30-03-1978 fixing the market value at Rs.1,500/- per acre. Aggrieved thereby, the respondents-claimants sought a reference and the reference Court, by the order under appeal, enhanced the market value from Rs.1,500/- per acre to Rs.7,500/- per acre. The reference Court further held that the claimants were entitled to 12% additional market value *p.a.* from the date of taking possession till the date of the order *i.e.* 30-03-1978; they were also entitled for 30% solatium on such market value; and they were also entitled to interest at 9% *p.a.* for the first year from the date of taking possession and thereafter at 15% *p.a.* till payment of compensation.

Sri T.Ramulu, learned counsel for the respondents-claimants, would fairly state that the order of the reference Court suffers from a legal infirmity only to the limited extent that additional market value, under Section 23 (1A) of the Act of 1894 at 12% *p.a.*, was granted from the date of taking possession till the date of the award *i.e.* 30-03-1978; and that the said provision is inapplicable as it was inserted subsequently by Act 68 of 1984. Learned counsel would, however, contend that, in all other respects, the order of the reference Court does not necessitate interference.

Learned Government Pleader for Appeals (TS) would, however, contend that the reference Court had relied on Ex.A1 certified copy of the registered sale deed *vide* document No. 1410/76 dated 29-05-1976, whereby an extent of Ac. 3.36 guntas was sold for a total consideration of Rs.7,500/-, to fix the market value. The Court below also referred to Ex.B3 certified copy of registered sale deed dated 19-12-1975 prior

to Section 4 (1) notification, whereby the subject land was sold at Rs.16,000/- per acre. The Court below observed that the Land Acquisition Officer had adopted the sale deed convenient to fix the least market value at that point of time; since the land acquired itself was for providing house sites, its potential value, with reference to future prospects and possibility, was obvious; if that was to be taken into consideration, it would not be less valuable than the market value of the land in the neighbouring village under Ex.A2, wherein the market value was fixed at Rs.16,000/- per acre; the Land Acquisition Officer had also taken into consideration the fact that majority of the sale deeds were registered for less value to avoid stamp duty; and viewed from any angle, the market value fixed by Land Acquisition Officer was not just and reasonable and could not be appreciated. The Court below observed that, since the potential value of the land acquired in the instant case had to be assessed from its prospects, its market value must be determined on the discounted value of the highest price. The Court below fixed the market value at Rs.7,500/- per acre.

While the submission of learned Government Pleader for Appeals (TS) that the Court below had fixed the market value at Rs.7,500/- per acre on mere approximation, and not on the basis of comparative sales, cannot be said to be without merit, the fact remains that the total extent of land acquired, under the said notification, is only of an extent of Ac. 5.04 guntas. The market value has been enhanced by the Court below only by Rs.6,000/- per acre which would, in effect, mean that the respondents-claimants were granted an additional amount of approximately R.30,000/-, in addition to other statutory benefits. We see no reason, therefore, to interfere with the order of the Court below except to the limited extent that the respondents-claimants were granted interest at 12% *p.a.* under Section 23 (1A) of the Act of 1894. The order of the Court below is modified, and the interest granted under Section 23 (1A) of the Act of 1894 is set aside. In all other respects, the order of the Court below is affirmed. The appeal is disposed of accordingly. Pending miscellaneous petitions, if any, in this appeal shall stand closed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

M.SATYANARAYANA MURTHY, J.

Date: 08th October, 2015.

JSK