

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.453 OF 2007

JUDGMENT:(per Hon'ble Sri Justice K.C.Bhanu)

This appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act') is filed challenging the Order and decree, dated 25.01.2007, in Original Petition No.46 of 2001 passed by the Senior Civil Judge, Suryapet, whereunder and whereby, the Original Petition was allowed by enhancing the compensation of Rs.80,000/- per acre, as fixed by the Land Acquisition Officer, to Rs.1,50,000/- per acre with all statutory benefits.

2. Brief facts that are necessary for the disposal of the present appeal may be stated as follows:

Land to an extent of Acs.3-37 Gts., in Sy.Nos.410 and 412 situated at Suryapet revenue village was acquired by the Government for public purpose of providing house sites to weaker sections of the society. A draft notification under Section 4(1) of the Act, approved by the District Collector (S.W.), Nalgonda, was published in Nalgonda District Gazette, dated 11.04.1997. Thereafter, the Land Acquisition Officer conducted enquiry under the provisions of the Act and fixed the compensation at Rs.80,000/- per acre. Having not satisfied with the same, the claimant filed an application before the District Collector to refer the matter to a competent Civil Court under Section 18 of the Act for determination of appropriate and proper amount of compensation. On reference, the matter was taken on file by the

reference Court as O.P.No.46 of 2001.

3. On behalf of the claimant, PWs.1 to 4 were examined and Ex.A.1 was got marked and on behalf of the respondent, RW.1 was examined and Ex.B.1 was got marked.

4. The reference Court, after considering the evidence on record, enhanced the compensation from Rs.80,000/- per acre to Rs.1,50,000/- per acre. Challenging the same, the present appeal is filed by the claimant.

5. Now the point for consideration is whether the appellant is entitled for enhancement of compensation as prayed for?

POINT:

6. Learned counsel for the appellant contended that the sale transactions referred to, by the Land Acquisition Officer would clearly go to show that value of the acquired land is Rs.2,42,000/- per acre; that Ex.A.1, which is certified copy of the registered sale deed, would also go to show that value of the land is Rs.2,42,000/- per acre; that even the Revenue Divisional Officer, who was examined as RW.1 categorically admitted that the value of the acquired land is Rs.2,42,000/- per acre; that without adverting to these aspects, the reference Court has enhanced the compensation basing on the evidence available on record and therefore, she prays to enhance the compensation from Rs.1,50,000/- per acre to Rs.2,42,000/- per acre with all other statutory benefits for which the claimant is entitled to.

7. On the other hand, learned Government Pleader for Appeals opposed the same on the ground that there is absolutely no

acceptable evidence to show that value of the land is Rs.2,42,000/- per acre; that the sale transactions referred to, by the Land Acquisition Officer would clearly go to show that value of the land is only Rs.80,000/- per acre; that even the learned reference Judge has not placed reliance on Ex.A.1 as it is a small extent of land, therefore Ex.A.1 cannot be taken as a basis for determining the proper market value of the acquired land; that except filing Ex.A.1, the claimant failed to produce any documentary evidence including the sale deeds to show that value of the land is Rs.2,42,000/- per acre; that the reference Court after considering the material on record rightly enhanced the compensation and that order needs no interference by this Court.

8. The facts are not in dispute. An extent of Acs.3-37 Gts., of the land belonging to the claimant was acquired by the Government for the public purpose of providing house sites to the weaker sections of the society. After following the due procedure, the Land Acquisition Officer fixed the compensation at Rs.80,000/- per acre. As per Section 23 of the Act in determining the amount of compensation to be awarded for the land acquired under the Act, the Court shall take into consideration, *inter alia*, the market value of the land at the date of publication of the notification under Section 4 sub-Section (1) of the Act. The burden is on the claimant to establish the market value of the land, so that the Court can award or grant the amount of compensation.

9. Entire case of the claimant rests upon Ex.A.1, which is certified copy of the sale deed, whereunder Ac.0-02 Gts., of land was sold for a consideration of Rs.12,100/-, which would work out

to Rs.2,40,000/- per acre. The land covered under Ex.A.1 sale transaction is very close to the lands acquired in the present case. No doubt, the land covered under Ex.A.1 sale transaction is a small extent, but at the same time, it can be taken as a basis for determining or fixing the proper and appropriate market value. The draft notification under Section 4(1) of the Act was issued by the Government on 11.04.1997 and thereafter, possession was taken. Whereas, the sale transaction covered under Ex.A.1 is relating to the year 1995 i.e., two years prior to the issuance of the notification under Section 4(1) of the Act. Therefore, the sale transaction covered by Ex.A.1 can as well be taken as a guiding factor for determining the market value.

10. The oral evidence has also to be looked into for the purpose of evaluating the proper and just compensation coupled with the documentary evidence. Revenue Divisional Officer, who was examined as RW.1, admitted in his evidence that the market value of the land acquired in the present case is Rs.2,42,000/-; that lands in Sy.Nos.387, 384, 385 and 362 are the surrounding lands to the acquired land; that the land acquired is potential to use as house sites; that the acquired land is very near to the village and it is situated towards Synikpuri Colony, which was already developed and the said land is situated at a distance of two furlongs from Suryapet-Miryalguda Road. Therefore, the land acquired is located in a strategic location and fetches more money.

11. The land covered by Ex.A.1 sale transaction is a small extent. But, at the same time, it can be taken as a guiding factor

to determine the market value coupled with the admissions made by the Revenue Divisional Officer, who was examined as RW.1. Therefore, there is no difficulty in accepting the evidence of RW.1 coupled with sale transaction under Ex.A.1, which would clearly go to show that value of the land is Rs.2,42,000/- per acre. The reference Court has not placed any reliance on Ex.A.1 on the sole ground that the land sold under Ex.A.1 is a small extent. But, it can be taken as a guiding factor because the sale transaction under Ex.A.1 is long prior to the issuance of draft notification under Section 4(1) of the Act. The reference Court committed mistake in not accepting the sale transaction under Ex.A.1 coupled with the evidence of RW.1. Hence, the market value of the acquired land is enhanced from Rs.1,50,000/- per acre to Rs.2,42,000/- per acre.

12. Accordingly, the appeal is allowed enhancing the compensation from Rs.1,50,000/- per acre to Rs.2,42,000/- per acre marking it clear that the appellant is entitled for all the statutory benefits under the Act. 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:20.01.2015
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