THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

LAND ACQUISITION APPEAL SUIT No.833 OF 2006

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

This is an appeal by the Land Acquisition Officer-cum-Revenue Divisional Officer, Khammam, assailing the order dated 23.03.2006 passed by the learned Senior Civil Judge, Sathupalli in Original Petition No.52 of 1996.

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

3. The facts necessary for consideration, in brief, are as follows:-

'The land of the claimant admeasuring Ac.1-08 ½ guntas in survey No.477/A, 477/AAE and 477/EE was acquired for providing house sites to weaker sections of the society. After due award enquiry, an award was passed by the Land Acquisition Officer and compensation for the acquired land was determined at the rate of Rs.18,000/- per acre. The Land Acquisition Officer had also awarded the statutory benefits. Grieved by the said order, the claimant had sought reference to the Civil Court by filing an application under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') before the District Collector. On a reference made, the aforementioned original petition was taken on file by the learned Senior Civil Judge, Sathupalli.'

4. During the course of enquiry before the reference Court, PW1 was examined and the pattadar pass book was marked as exhibit A1. No oral and documentary evidence was adduced on behalf of the Referring Officer.

5. On merits, the Court below had enhanced the compensation from Rs.18,000/- per acre to Rs.35,000/- per acre. Therefore, the Land Acquisition Officer is before this Court.

6. The learned Government Pleader for Appeals appearing for the appellant had submitted that there is no basis for enhancement of the compensation from Rs.18,000/- per acre to Rs.35,000/- per acre and that there is no legal or credible evidence to fix the market value at the rate as determined by the Court below and that even the document of the claimant i.e., exhibit A1-pattadar pass book would also show that the market value was Rs.21,000/- per acre as fixed by the Sub-Registrar and that therefore, at any rate, the compensation should not have been awarded exceeding Rs.21,000/- and that therefore, the impugned order is liable to be set aside.

7. On the other hand, learned counsel for the respondent/claimant had contended that the land was acquired for providing house sites to weaker sections of the society and the said fact itself is an indicia that the land is having potential value and is fit for use of house sites in the immediate or near future and that the exhibit A1 was issued much prior to the notification issued under Section 4(1) of the Act in respect of the acquired land and that the Court below had properly appreciated the facts and the evidence and had correctly determined the compensation and that therefore, the compensation awarded cannot be said to be not just and proper and hence, the order impugned does not call for interference by this Court.

8. The only point for consideration is:

> '**Whether the compensation determined by the Court below at the rate of Rs.35,000/- per acre is not just and fair in the facts and**

circumstances of the case and as contended by the appellant/State? And, if so, what shall be the just and proper compensation to be awarded to the claimant in this case?

9. <u>POINT:</u>

9. (a) There is no dispute about the facts which are narrated supra. Exhibit A1, the pattadar pass book of the claimant, on a perusal would show that the market value of the land was Rs.21,000/- per acre, as fixed by the Sub-Registrar. However, the claimant had claimed that the market value of the acquired land was Rs.30/- per square yard at the relevant time. Absolutely, there is no evidence to support the said claim of the claimant. In the absence of any evidence and without assigning any reasons for enhancement of the compensation, the Court below had enhanced the compensation for the acquired land from Rs.18,000/- per acre to Rs.35,000/- per acre despite the fact that exhibit A1-passbook shows the value of the acquired land as fixed by the Sub-Registrar was Rs.21,000/-. The learned Government Pleader had contended that the value mentioned by the Sub-Registrar that too in a pass book cannot be countenanced in view of the settled legal position that the values mentioned in the basic value registers maintained in the Office of the Sub-Registrar for the purpose of collection of stamp duty and registration charges cannot be taken as exemplar values of the lands and the same cannot be of any guidance for fixation of market values. It is appropriate to refer to the ratio in the decision of the Supreme Court in **Land Aquisition Officer vs Jasti Rohini**[1] wherein the Hon'ble Supreme Court held as follows:

> '**The admissibility and evidentiary value of the entries in the basic value register was considered by this Court in Jawajee Nagnatham v. Revenue Divisional Officer. After an elaborate consideration this Court held that the basic value register is maintained only for fiscal purpose of collecting stamp duty and registration charges. The**

market value mentioned therein cannot form a foundation to determine the compensation under Section 23(1) of the Act.'

Hence, he had contended that in the absence of any credible and reliable evidence, the finding of the Court below that the claimant is entitled to enhanced compensation at the rate of Rs.35,000/- for the acquired lands is clearly unsustainable more particularly when the said finding is not supported by any reasons much less valid reasons. The learned counsel for the claimant had reiterated that the pass book was issued much prior to the notification. However, except the exhibit A1-passbook there is no other evidence much less credible evidence brought on record showing the values of lands in the vicinity which can be considered as exemplar and which can be taken as safe guidance for determination of the market value of the acquired land. Therefore, we find that there is merit in the contentions of the learned Government Pleader that the order of the Court below enhancing the compensation from Rs.18,000/- per acre to Rs.35,000/- per acre is unsustainable in the facts and circumstances of the case.

9. **(b)** Be that as it may. Now the next question is as to what shall be the appropriate, just and fair compensation to be determined and awarded. Be it noted that the learned Government Pleader had contended that the claimant's document viz., pass book under exhibit A1 on a perusal would show that the value of the land is Rs.21,000/- only per acre and that in view of the contention of the claimant that exhibit A1 was issued much prior to the notification under Section 4(1) of the Act, that value alone may be countenanced without any additions, in case it is to be taken as sufficient guidance for determining the market value of the acquired land. As rightly urged by the learned counsel for the claimant, the pattadar pass book was issued much prior to the issuance of the notification under Section 4(1) of the Act. Further, the land was acquired for providing house sites to weaker sections of the society. The said aspect is indicative of the fact that the land is having potential value for being used as house site in the immediate or near future. Hence, we are of the well considered view that the compensation for the acquired land can be determined at Rs.21,000/- per acre. The point is accordingly answered.

10. In the result, the appeal is partly allowed reducing the compensation for the acquired land from Rs.35,000/- per acre to Rs.21,000/- per acre. It is needless to observe that the claimant shall be entitled to all the statutory benefits. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

K.C.BHANU, J

M.SEETHARAMA MURTI, J

FEBRUARY 04, 2015
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DATE: 04.02.2015

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[1] **1995 SCC (1) 717**