

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**APPEAL SUIT No.994 of 2002
& X OBJECTIONS(SR) No.64156 of 2002**

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Between:

The Tahsildar
(Land Acquisition Officer)
Mangalagiri, Mangalagiri MMC,
Guntur District

... Appellant/Referring Officer

And

Mallela Venkatarayudu,
S/o Raghavaiah,
R/o Thullur, Mangalagiri MMC,
Guntur District.

... Respondent

DATE OF JUDGMENT PRONOUNCED: 23.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

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|---|---|--------|
| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

COMMON JUDGMENT: (per Hon'ble Sri Justice Ramesh Ranganathan)

This appeal is preferred under Section 54 of the Land Acquisition Act, 1894 (for brevity, 'the Act') against the order passed by the Principal Subordinate Judge, Guntur in L.A.O.P.No.204 of 1984 dated 30.11.1995. The Land Acquisition Officer has preferred this appeal and the respondent-claimant have filed their cross-objections seeking enhancement of compensation from Rs.30,000/- per acre awarded by the reference Court, to Rs.1,00,000/- per acre.

The facts, in brief, are that a notification was issued under Section 4 (1) of the Act on 29.12.1975 to acquire an extent of Ac.4.41 cents of land in Sy.No.37/2 of Apparajupalem village, Mangalagiri Taluq, Guntur District for providing house sites to the members of the scheduled castes. The Land Acquisition Officer passed an award on 31.03.1980 fixing the market value of the subject land at Rs.10,000/- per acre. The Learned Principal Subordinate Judge, by his order in L.A.O.P.No.204 of 1984 dated 30.11.1995, fixed the market value of the subject land at Rs.30,000/- per acre, relying upon the order passed in L.A.O.P.No.252 of 1981 dated 26.04.1982 whereby land in Rayapudi village was acquired pursuant to a notification issued in the year 1981.

Before the Court below R.W.1 (the claimant in the O.P.) deposed that an extent of Ac.4.41 cents in Sy.No.37/2, from out of a total extent of Ac.4.66 cents, was acquired for

providing house sites; he had dug a borewell in the acquired land in the year 1964; he had raised turmeric crop for two years; he had, thereafter, grown lemon trees which were seven years old by the time the land was acquired; five years after the lemon trees are planted, they start yielding fruits; he was receiving Rs.5000/- per acre as net income from the lemon garden; there were 325 trees in the garden by the date of acquisition; the subject land was fertile land situated adjacent to the village; even if it was sold as agricultural land, it would fetch Rs.35,000/- per acre; the value of each tree was about Rs.1000/- per tree; no compensation was granted for the loss of trees; and he was claiming Rs.35,000/- per acre and Rs.1,00,000/- for the trees in the acquired land, along with solatium and interest as per the Amended Act.

R.W.2 was a resident of Rayapudi village whose land, of an extent of 0.41½ cents, was acquired by the Government in 1981 for providing house sites to the weaker sections. While the Land Acquisition Officer awarded Rs.6000/- per acre, the Court below, in L.A.O.P.Nos.251 to 253 of 1981, had enhanced the compensation to Rs.20,000/- per acre. R.W.2 marked the order in L.A.O.P.Nos.251 to 253 of 1981 dated 26.04.1982 as Ex.X1. He also stated that he was familiar with the land of R.W.1; by the date of acquisition, there was a lemon crop in the acquired land; and that ryots would get Rs.30,000/- to Rs.40,000/- per annum from the lemon garden.

R.W.3, the son of one of the beneficiaries of the house sites in the land under acquisition, deposed that there was a

lemon garden in the land; his father was given a house site, after the trees on the land were cut and made into sites; there was a borewell in the land given to his father by the Government; and the value of the land, when it was given to his father, was between Rs.40,000/- to Rs.50,000/- per acre.

R.W.4, a resident of Lingarayapalem village which is situated at a distance of less than one kilometer from Abbarajupalem village, stated that there was a lemon garden in the acquired land of the claimant at the time of acquisition; and the market value of such land would be between Rs.60,000/- to Rs.70,000/- per acre.

While the Court below may not have been justified in placing reliance on Ex.X1, i.e. the order passed in L.A.O.P.Nos.251 to 253 of 1981 dated 26.04.1982, as the notification, for the land acquired thereunder, was issued in the year 1981 more than five years after the subject lands were acquired by the Government, the fact remains that all the witnesses unanimously spoke of the subject land containing around 325 fruit-bearing lemon trees for which no compensation was granted.

The learned Government Pleader for Appeals is justified in his submission that the claimant cannot seek compensation both for the land and for the trees grown thereupon. From the evidence of R.W.1 to R.W.4 it is clear that the subject land had around 325 lemon bearing trees at the time of acquisition, all of which had started yielding fruit two years prior to the date of notification of the acquisition. R.W.1 (the claimant) himself deposed that the compensation

paid by the Government, for lands situated at less than one kilometer from the subject land, was around Rs.35,000/- per acre. As the Court below has not taken into account the fact that the subject land contained 325 lemon trees for which no compensation was paid, and as the claimant himself admits that the market value of the lands nearby was fixed at Rs.35,000/- per acre, the appeal preferred by the Government is dismissed and the cross-objections are allowed in part enhancing the market value of the subject land from Rs.30,000/- to Rs.35,000/- per acre. The respondent-claimant shall, in addition, be entitled to all statutory benefits.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

S.RAVI KUMAR, J

23rd July, 2015.

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