THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And
THE HON'BLE SRI JUSTICE S.RAVI KUMAR

APPEAL SUIT No.1887 of 2002

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 Senior Civil Judge, Tirupati in L.A.O.P.No.3 of 2000 confirming the award passed by the Land Acquisition Officer in Award No.4/1998.

An extent of 150 sq.yards of land of the appellants, situated in T.S.No.966/2 near NTR Circle of Tirupati, was acquired for the purpose of widening of the Prakasam road from Town club to S.V.Dairy Farm at Tirupati, and the Section 4 (1) notification was published in the gazette on 02.07.1996. The Land Acquisition Officer passed an award on 16.12.1998 awarding compensation of Rs.1,02,772/- i.e. at Rs.223/- per sq.yard for 127.5 sq.ft of land, and Rs.35,992/- for the structures.

In his award the Land Acquisition Officer, relying on the sale deed of a vacant site of an extent of 340 sq.ft in Sy.Nos.965 and 966 (document No.1983 dated 28.05.1994 for Rs.75,000/- i.e. at Rs.223/- per sq.ft), observed that the said land was situated abutting Tirupati-Chandragiri main road; the sale, which took place in the year 1994, was between a willing purchaser and a willing seller; the said land

was also notified for acquisition; the best evidence, of the value of the acquired property, was the sale of the very property to which the claimant was a party; nothing had been done on the land, during the short period, to raise its value; the said land had similar advantages; the land was inspected in September, 1998; and, keeping in view all its existing advantages and its potential possibilities, the compensation for the notified lands was being determined at Rs.223/- per sq.ft.

With respect to the land acquired from the appellant herein, the Land Acquisition Officer held that, though the appellant had claimed compensation of Rs.30,000/- per ankanam (ankanam=36 sq.ft), no documentary evidence was produced by him to substantiate his claim. The appellant's claim for higher compensation was rejected by the Land Acquisition Officer, and the value of the land was fixed at Rs.223/- per sq.ft. In addition thereto, compensation of Rs.35,992/- was paid for the structures, and 30% solatium and 12% additional market value was paid thereon.

On a reference being sought by the appellants under Section 18 of the Act, the matter was referred to the Court of the Principal Senior Civil Judge, Tirupati. Before the Court below, the first appellant examined himself as R.W.1. The Senior Assistant, in the Property Cell of the TTD, was examined on behalf of the Land Acquisition Officer. Exs.B1 to B10 were marked on behalf of the appellants-claimants. The Court below, by the order under appeal, confirmed the award

passed by the Land Acquisition Officer and dismissed the O.P. The Court below, however, directed that, since the total extent of the land acquired was 150 sq.ft and not 127.5 sq.ft, the appellant was entitled to be paid compensation at Rs.223/- per sq. feet for the entire extent of land acquired of 150 sq. feet including the extent of 22.50 sq.ft which the Land Acquisition Officer had failed to take into consideration.

On the question whether the compensation awarded by the Land Acquisition Officer necessitated interference, the Court below noted the claim of the appellant based on the certificate issued by the Sub-Registrar under Ex.A9 at Rs.4000/- per sq.yard, and his unsubstantiated claim that the market value of the site was Rs.10,000/- per sq.yard. The Court below held that no cogent and coherent evidence was adduced to prove that, in and around the site, the value was Rs.10,000/-per sq.ft; Ex.B10 relied upon by the appellant was a sale deed registered two years prior to the Section 4(1) notification; the site was located far away from the property; apart from Ex.B10, no evidence was let in to establish that the market value of the acquired property was higher than the properties sold within the vicinity of the claimant's property; no plausible material was placed by the claimant to contradict or overcome the compensation fixed by the Land Acquisition Officer; as the property, referred to in Ex.B10, was far away from the acquired land, no reliance could be placed thereon and, in the absence of any satisfactory evidence being placed on record, it must be held that the compensation

awarded by the Land Acquisition Officer was reasonable.

With regards the appellant's claim for compensation for the borewell and the staircase, the Court below held that the appellant did not refer to the value of the borewell, or the expenditure which he had incurred to construct the staircase; even during the course of enquiry, the value of the staircase and the borewell was not stated before the Land Acquisition Officer; the Land Acquisition Officer had incorporated the value of the borewell, as well as the staircase, in fixing the compensation for the building; the claimant had not questioned the compensation fixed for the building; no *bona fide* reasons were found which required interference; and, consequently, the claimant was dis-entitled to claim compensation for the borewell and the staircase.

Before us, Sri P.V.Vidyasagar, learned counsel for the appellant, would fairly state that Ex.B10 could not have been relied upon. Learned counsel would, however, contend that the appellant's claim for enhancement of compensation is based on Ex.B9, and the uncontroverted oral evidence adduced before the Court below. Learned counsel would also draw attention of this Court to Ex.B6 dated 28.11.1998 i.e. the Award Enquiry notice, and Ex.B7 dated 05.12.1998 i.e. objections filed by the claimant before the Land Acquisition Officer, to submit that the appellant had specifically claimed compensation for the staircase and the borewell also; the Court below had erred in holding that the compensation fixed by the Land Acquisition Officer for the

structure included compensation for the borewell and the staircase; Ex.B9 shows the value of the acquired land to be Rs.4000/- per sq.yard which is around Rs.450/- per sq.ft; and, in such circumstances, the Court below ought to have enhanced the compensation atleast to Rs.450/- per sq.yard. Learned counsel would rely on **Land Acquisition Officer, Sub-Collector, Vijayawada v. Hindustan Commercial and Transport Company Private Limited, Vijayawada**[1].

Sri G.Ramachandra Reddy, learned counsel appearing on behalf of the Land Acquisition Officer, would submit that the Court below had, rightly, held that the amount fixed by the Land Acquisition Officer was just and proper; no evidence was let in by the appellant to show that the value of the land, when the Section 4 (1) notification was issued, was higher; Ex.B9 is the application made to the Sub-Registrar on 08.08.1996, after the Section 4(1) notification was issued; it was not even marked through any officer in the Sub Registrar's office; Ex.B9 does not show under what circumstances the said certificate was issued; it neither makes any reference to any particular sale transaction, nor does it indicate the basis on which the value of the land, in the said survey number, has been arrived at as Rs.4000/- per sq.yard; the value of the structure was determined on the basis of the report of the Chief Engineer of the TTD; and, in the absence of any evidence being let in to establish that no compensation was paid for the staircase or the borewell, the Court below had rightly held that the compensation paid for

the structure included the compensation paid for the borewell and the staircase.

Sri M.Adinarayana Raju, learned counsel appearing on behalf of the TTD, would place reliance on **Revenue Divisional Officer, Vizianagaram v. Vommi Appalaswami and others**[2], and **Revenue Divisional Officer, Guntur v. Vasireddy Rama Bhanu Bhupal and others** [3], to contend that the appellate Court should not interfere with the order under appeal except on the basis of a fundamental or radical error of principle; no such error has been pointed out by the appellant; and the order of the Court below does not necessitate interference.

Following the judgment of the Madras High Court in **Tallapragada Veera Venkamma and others v. The Collector Of West Godavari and others**[4], this Court, in **Vommi Appalaswami**[2], held that, in case of land acquisition, where the question of adequacy of the amount determined by the Court or the Tribunal is in issue, the appellate Court ought to bear in mind that, except in case of a fundamental or radical error of principle, there would be no justification for interference. In **Vasireddy Rama Bhanu Bhupal**[3] a Full Bench of this Court held that, in considering the adequacy of the amount that has to be awarded by a Court or Tribunal, the appellate Court ought not to interfere except in case of a fundamental or radical error of principle. In **Hindustan Commercial and Transport Company Private Limited,**

Vijayawada[1] a Division Bench of this Court held that, where the sale-statistics have been considered by a Land Acquisition Officer, and if those documents have not been marked before the reference Court, these documents have no evidentiary value, and cannot be taken into consideration; and if the transactions are prior to the notification, the highest value depicted in the sale deed shall be taken into consideration for awarding compensation.

Ex.B9 is the certificate dated 08.08.1996 issued by the Sub-Registrar's office, Tirupati certifying the market value of the property. The said certificate records that, for court fee purposes, the value of the RCC building was Rs.180/- per sq.ft and the value of the vacant site was Rs.4000/- per sq.ft. The basis, on which the market value has been determined, is not reflected therein. The market value prescribed for court fee purposes cannot form the basis for holding that the said certificate represents the actual market value of the land in the vicinity. Except to mark the said document as Ex.B9, the appellant made no reference, even in his chief examination before the Court below, to the basis on which the Sub-Registrar had determined the market value of land, in the vicinity, to be Rs.4000/- per sq.yard. While the appellant, no doubt, claimed that the market value of the site was Rs.10,000/- per sq.ft, in the absence of any documentary evidence on record or any oral evidence, other than the self-serving testimony of the appellant, we see no reason to accept such a claim. No other evidence was adduced by the

appellant herein, before the Court below, in support of his claim that the market value of the subject land is far higher than the amount awarded by the Land Acquisition Officer.

The fact, however, remains that the sale deed relied upon by the Land Acquisition Officer i.e. document No.340 dated 28.05.1994, related to a sale transaction which took place more than two years prior to the Section 4(1) notification dated 01.07.1996. It is not in dispute that the land acquired from the petitioner is in a busy commercial area, and is in the heart of Tirupati City, just a furlong away from the Court premises. The rapid development of Tirupati, a renowned pilgrim centre, would have required the Land Acquisition Officer to enhance the market value atleast by 10% each year. As the Land Acquisition Officer had fixed the market value of the land at Rs.223/- per sq.yard, based on the document dated 28.05.1994, enhancing the market value at 10% per annum would have resulted in compensation being awarded at Rs.268/- per sq.yard i.e. Rs.45/- per sq.yard more than what the Land Acquisition Officer had awarded.

In Ex.B6-notice dated 28.11.1998, issued under Sections 9 (3) and 10 of the Act, the Land Acquisition Officer has referred to the fact that there was an RCC building and a borewell on the subject land. In his reply thereto dated 05.12.1998 (Ex.B7), the appellant stated that the building with a borewell was being acquired; and, in addition, there was a staircase going to the roof of the building. While the Land

Acquisition Officer has fixed a consolidated sum of Rs.35,992/- for the structure, there is no material on record to show that the structural value also included the staircase and the borewell.

While the appellant's claim for compensation of Rs.7000/- for the staircase, Rs.5000/- for transporting the debris, Rs.20,000/- for reconstructing the staircase, Rs.50,000/- for the borewell and Rs.10,000/- for the motor and wiring, appears exaggerated, we consider it appropriate to grant the appellant an additional sum of Rs.20,000/- towards the staircase and the borewell acquired by the Land Acquisition Officer. In addition to the structural value awarded earlier of Rs.35,992/-, the appellant shall be entitled to be paid Rs.20,000/- towards the borewell and the staircase. They shall also be entitled to all statutory benefits, including interest on solatium and additional market value under Section 34 of the Act, both for the amount awarded by the Land Acquisition Officer for the entire extent of 150 sq.yards of land, and on the enhanced compensation in respect of the land, the borewell and the staircase.

The Appeal Suit is disposed of accordingly.
The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

S.RAVI KUMAR, J

14th July, 2015.
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[1] (1992) 2 ALT 423 (DB)

[2] AIR 1967 A.P. 56 (V 54C 19) (1)

[3] AIR 1970 A.P. 262 (V.57 C 40) (1)

[4] 1950 Madras 650