

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.599 OF 2006

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

This appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act') is filed assailing the order and decree, dated 23.10.1998, in L.A.O.P.No.1066 of 1988 on the file of the Senior Civil Judge, Rajampet, Cuddapah District, which was disposed of along with L.A.O.P.No.1071 of 1988 and Batch by way of a common judgment.

2. The appellant is the claimant in L.A.O.P.No.1066 of 1988. The following lands of the claimant viz., land in an extent of Ac.0.61 cents; garden in an extent of Ac.0.39 cents in S.No.33/1C and garden in an extent of Ac.2.00 cents in S.No.33/2 were acquired by the Government issuing a notification under Section 4(1) of the Act dated 12.8.1980 for the purpose of construction of Somasila Project. After complying with the formalities and after conducting an Award Enquiry, the Land Acquisition Officer (for short, "L.A.O.") fixed the compensation at the rate of Rs.4,000/- per acre. The appellant herein and others not having been satisfied with the said compensation had sought a reference under Section 18 of the Act. On reference made, the Civil Court, Rajampet has taken the case on file as L.A.O.P.No.1066 of 1988 and this O.P. was disposed of along with the batch of cases and compensation was enhanced. According to the claimants, there were 90 fruit bearing mango trees in the acquired land besides other trees as on the date of the acquisition. However, while enhancing the compensation, the Civil Court has not enhanced the compensation towards the value of trees. Therefore, not having been satisfied with the order and decree of the Civil Court, the appellant had preferred this appeal.

3. We have heard the submissions of the learned counsel for the appellant/claimant and the learned Government Pleader for Appeals (Andhra Pradesh) for the respondent.

4. Learned counsel for the appellant/claimant would contend that there are mango trees, tamarind trees, sandal trees, red sandal trees, palm trees, darshan trees and other trees in the acquired land and that the L.A.O. had awarded a meagre compensation and that the Civil Court had failed to award enhanced compensation for the said trees. The learned counsel had placed reliance on a decision of this Court rendered in a similar case i.e., in A.S.No.2753 of 1999 and contended that at least the compensation be enhanced for mango trees from Rs.1,500/- to Rs.2,500/- per tree as the decision in that appeal was rendered in respect of lands in the same survey numbers covered by the same notification and as the subject lands are comparable to the lands in the said appeal suit.

5. On the other hand, the learned Government Pleader for Appeals (Andhra Pradesh) would contend that for lack of evidence, the Civil Court has not enhanced any compensation in respect of the trees in question and that the Civil Court has accurately fixed the compensation and that there is no merit in the appeal and the appeal is liable to be dismissed.

6. In view of the submissions made now before this Court, the question that arises for consideration is – ‘whether compensation can be enhanced towards the value of the mango trees or not?’

7. We have given earnest consideration of the facts, the circumstances and the submissions. A perusal of the record would go to show that in the acquired land of the claimant/appellant herein, there are 90 mango trees. The L.A.O. had awarded compensation at the rate of Rs.1,500/- per tree. As already noted, the reference Court has not awarded any enhanced compensation in respect of those trees. We have perused the judgment, dated 6.3.2009, in A.S.No.2753 of 1999 on which

reliance is placed by the learned counsel for the claimant. Both the counsel agreed that the matter can be disposed of in the light of the judgment of this Court in the above said appeal. The lands covered by the said judgment were also acquired under the same notification. The lands are of the same village and are exemplar is not in dispute. In the judgment, dated 25.7.1996, in A.S.No.2885 of 1990, which judgment was referred to in the judgment in A.S.No.2753 of 1999, this Court confirmed the compensation fixed by the lower Court at Rs.20,000/- per acre and enhanced compensation of the acquired mango trees from Rs.2,000/- to Rs.2,500/-. Following the same, this Court, in the judgment, dated 9.8.2000, in A.S.No.1132 of 1992, had fixed the market value of the acquired mango tree in the said acquired lands at Rs.2,500/- as against Rs.2,000/- fixed by the reference Court. A Division Bench of this Court in A.S.No.3593 of 2004, dated 20.9.2004, dismissed the appeal preferred by the R.D.O. confirming fixation of the market value at Rs.40,000/- per acre but for a different village. Following the said judgments, this Court held in A.S.No.2753 of 1999 that the claimants therein are also entitled to compensation for mango trees @ Rs.2,500/- per mango tree. In view of the fact that the lands with trees in A.S.No.2753 of 1999 are comparable to the subject lands and are exemplar, we are of the considered view that the appellant herein is also entitled to enhancement of compensation from Rs.1,500/- to Rs.2,500/- per mango tree.

8. Accordingly, the appeal is partly allowed enhancing the compensation only in respect of 90 mango trees from Rs.1,500/- to Rs.2,500/- per tree. The rest of the claim is disallowed and rest of the order of the reference Court is confirmed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

JUSTICE K.C.BHANU

JUSTICE M.SEETHARAMA MURTI

Date: 23.3.2015

AMD

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