

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.454 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 07.07.2006, in Land Acquisition Original Petition No.3 of 2001 passed by the Senior Civil Judge, Sathupalli, whereunder and whereby, the Original Petition was allowed enhancing the compensation by fixing the market value of the acquired land at Rs.35,000/- per acre as against the market value fixed by the Land Acquisition Officer at Rs.26,000/- per acre.

2. Land to an extent of Acs.5-27 Gts., in Sy.Nos.259 and 260 of Mandalapadu village of Khammam District was acquired by the Government for the public purpose of providing house sites to the weaker sections of the society by issuing a notification under Section 4(1) of the Act on 23.10.1999. Due enquiry was conducted and the Land Acquisition Officer passed an award on 30.09.2000 fixing the compensation at Rs.26,000/- per acre. Having not satisfied with the same, the claimant sought reference to the competent Civil Court. Accordingly, the matter was taken on file by the reference Court as LAOP No.3 of 2001.

3. Before the reference Court, on behalf of the claimant, PWs.1 and 2 were examined and Exs.A.1 and A.2 were got marked and on behalf of the Land Acquisition Officer, RW.1 was

examined and Exs.R.1 to R.6 were got marked.

4. The reference Court, basing on Exs.A.1 and A.2 sale agreements and considering the evidence of PWs.1 and 2, enhanced the compensation from Rs.26,000/- per acre to Rs.35,000/- per acre. Challenging the same, Land Acquisition Officer filed the present appeal.

5. Learned Government Pleader for Appeals (Telangana) contended that except Exs.A.1 and A.2, there is no other evidence to show the correct and proper market value of the lands acquired; that the reference Court ought not to have placed reliance on Exs.A.1 and A.2 because they are post-notification sale agreements and the transactions covered under Exs.A.1 and A.2 relate to commercial purpose and therefore, he prays to allow the appeal.

6. Learned counsel for the respondent contends that the reference Court after considering the material available on record rightly awarded the compensation and that order needs no interference by this Court.

7. Now the point for consideration is whether the compensation fixed by the reference Court is just and proper?

8. Facts are not in dispute. As per Section 23 of the Act, in determining the amount of compensation to be awarded for the land acquired under this Act, the Court shall take into consideration *inter alia*, the market value of the land on the date of

the publication of the notification under Section 4, sub-section (1) of the Act. The Reference Court has to take normally into consideration the evidence as well as the sale transactions prior to the date of notification for the purpose of determination of market value of the lands acquired. Exs.A.1 and A.2, which are the sale agreements filed by the claimant, would go to show that the market value of the land acquired is Rs.35,000/-per acre. The enhancement was made basing on the facts that the land was acquired for providing house sites to the weaker sections of the society, existence of 216 of cashew nut trees and 41 toddy trees and the uptrend in the market value of agricultural lands every year.

9. Exs.A.1 and A.2 are the agreements of sale, that they do not confer any title. As a matter of fact, Ex.R.2 is agreement executed by the claimant in favour of the Land Acquisition Officer for passing of the consent award at Rs.80,000/- per acre. When the consent award is passed, it can be presumed that the claimant is not entitled for any other statutory benefits except Rs.80,000/- per acre in all respects. Therefore, even if that is taken into consideration, fixing market value of the acquired land at Rs.35,000/- per acre cannot be shown to be on higher side. Therefore, the impugned order needs no interference by this Court.

10. Accordingly, the appeal is dismissed. 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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