HON'BLE SRI JUSTICE G.CHANDRAIAH

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HON'BLE SRI JUSTICE M.S.K. JAISWAL

L.A.A.S. No. 27 of 2015

DATE: 27.03.2015

Between:-

The Special Deputy Collector .. Appellant/

Referring Officer

and

K.A. Ratnamma .. Respondent-

Claimant

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JUDGMENT:- (per Hon'ble Sri Justice G. Chandraiah)

This appeal is directed against the order dated 16.07.2008 passed in L.A.O.P.No. 38 of 1990 by the learned Senior Civil Judge, Atmakur, whereby the market value fixed by the Land Acquisition Officer was enhanced to Rs.45,000/- per acre with statutory benefits including interest on solatium and additional market value.

The admitted facts of the case are that the Special Deputy Collector, Land Acquisition, SRBC, Nandyal had acquired an extent of Ac.3.94

guntas of land belonging to the claimant in Sy.No.496/F situated in Bhanumukkala village, Pamulapadu Revenue Mandal, Kurnool District on 30.06.1984 by issuing Notification dated 03.05.1984 under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act") for the purpose of construction of S.R.B.C. Camp Colony (residential and non-residential buildings) and fixed the market value at Rs.6,000/- per acre. Being not satisfied with the quantum of compensation, the respondent-claimant, while seeking reference under Section 18 of the Act, filed her claim statement for enhancement of the compensation. On such reference, the learned Senior Civil Judge, Atmakur, after examining the evidence both oral and documentary, by Order dated 16.07.2008 in O.P.No.38 of 1990, while taking into consideration Ex.B1 – Award No.2 of 1985, dated 18.02.1985 in respect of acquisition of same extent of land and in the same survey number situated in Bhanumukkala village, enhanced the market value to Rs.45,000/- per acre. Challenging the order dated 16.07.2008, the Special Deputy Collector (Land Acquisition) has filed the present appeal.

When the matter is taken up for hearing, the learned Government Pleader for Appeals appearing for the appellant – Special Deputy Collector and the learned counsel for the respondent-claimant have submitted that similar batch of appeals were disposed of by a Division Bench of this Court, vide Common Judgment dated 20.02.2003 in A.S.Nos. 1588 of 1998 and batch and the present appeal is squarely covered by that judgment, as such, this appeal may be disposed of in terms thereof.

As per the Common Judgment dated 20.02.2003 in A.S.Nos.1588 of 1998 and batch, the Appeal Suits preferred by the Special Deputy Collector(L.A), SRBC, Nandyal against the Judgment and Decree dated 02.01.1998 made in O.P.Nos.34, 36 and 37 of 1990 respectively on the file of the Court of the Subordinate Judge, Atmakur in respect of the land admeasuring Ac.9.04 cents situated in Bhanumukkala village, Pamulapadu Mandal, Kurnool District which was acquired for the purpose of construction of residential and non-residential buildings for Srisailam Right Bank Canal Camp Colony by issuing Notification dated 03.05.1984 under Section 4(1) of the Act, were dismissed with the following observations:

> "The Reference Court has not only relied on Ex.A3, but has also relied on Ex.A4, which is the certified copy of the Award dated 30.03.1992 in which the Land Acquisition Officer himself had accepted that the market value of the land was on the ascending order. Therefore, keeping in view the nature of the document and the extent, sale-deed under Ex.A3 and also the admission made by the Land Acquisition Officer about the spiraling prices of the land near the vicinity of the acquired land, the Reference Court made deduction of 40 percent towards developmental charges. We do not find any illegality or irregularity in the order passed by the Reference Court. The order fully conforms to the principles laid down by the Supreme Court on this aspect in various judgments. In fact, the Supreme Court in **Kasturi v. State of Haryana** has observed that normally 1/3rd has to be deducted towards the developmental charges. But, however, keeping in view the particular facts of this case, deduction of 40 percent cannot be said to be illegal or contrary to law.
>
> In the result, all the three Appeals fail and are accordingly dismissed, but, without any order as to costs. It is, however, clarified that the claimants are entitled to all the statutory benefits including interest on solatium and additional market value as per the judgment of the Supreme Court in **Nagpur Improvement Trust v. Vasantrao**"

We have carefully perused the Common Judgment dated 20.02.2003 and noticed that the petition schedule land belonging to the claimant herein is also situated in Bhanumukkala village, Pamulapadu Mandal, Kurnool District and the same was acquired for the purpose of construction of residential and non-residential buildings for Srisailam Right Bank Canal Camp Colony by issuing Notification dated 03.05.1984 under Section 4(1) of the Act, as such, we are of the considered opinion that the subject matter of the present appeal is squarely covered by the Common Judgment dated 20.02.2003 in A.S.Nos. 1588 of 1998 and batch.

In view of the submissions made by the learned counsel for both the parties and following the Common Judgment dated 20.02.2003 in A.S.Nos. 1588 of 1998 and batch, we are inclined to dismiss the present appeal.

Accordingly, the Land Acquisition Appeal is dismissed in terms of the Common Judgment dated 20.02.2003. No order as to costs.

As a sequel to the dismissal of the appeal, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

27.03.2015

M.S.K. JAISWAL, J

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