

THE HON'BLE SRI JUSTICE K.C. BHANU
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

L.A.A.S. No.627 of 2010

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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 29.07.2005, in Original Petition No.10 of 1998 passed by the learned Principal Senior Civil Judge, Anantapur, whereunder and whereby, the reference was partly answered in favour of the claimants.

2. House bearing D.No.5/74 situated in S.No.170 of Mylarampalli village, Uravakonda Mandal of Anantapur District was acquired by the Government for the purpose of PABR Dam by issuing a draft notification under Section 4(1) of the Act on 18.03.1995. Due enquiry was conducted and the Land Acquisition Officer had passed an award bearing No.16 of 1996 on 24.09.1996 fixing the compensation for the acquired house at Rs.1,78,013/-.

3. Not satisfied with the market rate fixed by the Land Acquisition Officer under the Award, claimant no.1, who is the owner of the house bearing No.5/74, had made an application under Section 18 of the Act to refer the matter to the competent Civil Court for determination of just and reasonable market value. Accordingly, the same was referred to the learned Principal Senior Civil Judge, Anantapur, which was taken on file as OP.No.10 of 1998. During the pendency of the said reference, claimant No.1 died and his legal representatives were brought on record as claimant nos.2 to 5.

4. Before the reference Court, on behalf of the claimants, PW.1 was examined and Exs.A.1 to A.4 were marked. No oral evidence was

adduced on the side of the Land Acquisition Officer but Exs.B1 and B2 were marked.

5. The reference Court held that the claimants are entitled for compensation equivalent to the value of the site acquired so as to enable the claimants to purchase a site and construct a house elsewhere and had determined the market value of the land acquired at Rs.4,000/- Aggrieved thereby, the claimant is before this Court.

6. We have heard the submissions of the learned counsel for the appellant/claimant and the learned Government Pleader for appeals.

7. The learned counsel for the appellant/claimant contended that the reference court did not appreciate the evidence of PW1 in proper perspective and had wrongly enhanced the compensation by enhancing the compensation at Rs.4,000/- only though the appellant is entitled to more compensation; and that the LAO ought to have taken the SSR for the year 1994-1995 since the subject notification was issued in 1994. Hence, it is prayed that the compensation be enhanced.

8. Per contra, the learned Government Pleader for Appeals contended that the claimant failed to produce the SSR relating to the year 1994-95 and therefore, the LAO determined the rates of the structures basing on the SSR for the year 1991-92 and that admittedly, the Government is the owner of the property and therefore, the petitioner is not entitled for any compensation towards value of the house site. Hence, he prays to dismiss the appeal.

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

10. The facts are not in dispute. Coming to the aspect of the entitlement of the claimant for the escalation of prices as per the SSR at

the relevant time, it is sought to be contended that the reference Court erred in determining the compensation placing reliance on the SSR for the year 1991-1992 alone and that it failed to take into consideration that the material cost of the house is increasing year to year and that therefore, the construction material cost at the relevant point of time has to be taken into consideration and escalation of price at the rate of at least 10% ought to have been awarded while determining the compensation.

11. We are not able to agree with the said submission of the learned counsel for the reason that the Government will fix the SSR and it will change the SSR whenever the need arises. Therefore, there is no need for the Government to notify the SSR for a particular year, if the cost of material for construction of houses is not increased. The claimant could not produce the SSR issued by the Government for the year 1994-95 for the purpose of determination of the market value of the structures. Therefore, in the absence of any evidence, the reference Court is left with no other option except taking into consideration the available evidence on record in determining the compensation.

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12. Coming next to the aspect of market value of the land on the site acquired, it is sought to be contended by the learned Government Pleader that the site acquired is a Government poramboke and that the claimants had occupied the same and started residing therein by constructing a house and that they have been in possession and enjoyment of the same since a long time and that the said fact by itself does not entitle the claimants to claim title over the site in question. In reply, it is contended by the learned counsel for the appellants that the Government has not preferred any appeal questioning the same.

13. Admittedly, the Government is the title holder of the land acquired, it being a village poramboke. The Government has not filed any appeal

against the finding of the reference Court that the claimants are entitled for compensation towards the market value of the land on the site acquired. In the absence of appeal by the Government, finding of reference Court on this aspect needs no interference. However, the finding of the reference Court in this case that the claimants are entitled to the market value of the land cannot be taken as a precedent for deciding the question in the other appeals.

14. For the aforesaid reasons, we do not find any merit in any one of the contentions and the claimants are not entitled for any other enhancement on the compensation fixed by the reference Court.

15. Accordingly, the Appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

K.C. BHANU, J

M. SEETHARAMA MURTI, J

02.02.2015

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