

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS JUSTICE ANIS

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APPEAL SUIT No.1422 of 2003

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JUDGMENT: (per Hon'ble Sri NRR,J)

This old appeal is preferred by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894, (for short, 'the Act') against the order of reference passed in O.P.No.5 of 1993 on 30.11.1999 by the Additional District Judge, Nizamabad ('reference Court', for brevity). Land belonging to the respondents herein of a total extent of Ac.4-19 guntas lying in Kodcherla Village of Balkonda Mandal, Nizamabad District, has been acquired for the purpose of excavation of irrigation canal. The Land Acquisition Officer has fixed the market value of these lands at Rs.10,000/- per acre. Not being satisfied with the said fixation of market value, the claimants sought for a reference under Section 18 of the Act and that's how the reference came to be entered by the reference Court.

2. Exactly couple of years prior to the notification, which was published on 12.05.1988, acquiring the lands with which we are concerned in this appeal, certain other lands in the adjoining Mendora village have also been acquired for an identical purpose. Fixation of market value of those lands was the subject matter of consideration by the reference Court in O.P.No.140 of 1990. The reference Court has enhanced the market value from Rs.8,000/- per acre as fixed by the Land Acquisition Officer to that of Rs.23,000/- per acre duly taking into account the nature of the land, nature of terrain, fertility factor and potentiality for further improvements. Thus, lands which have been acquired in the adjoining village of Kodcherla fetched the market value of Rs.23,000/- per acre. Taking the said factor and all other relevant factors into account, now the reference Court has fixed the market value for the present lands at Rs.24,000/- per acre and that's how the reference has been

answered. It is against this award of compensation at Rs.24,000/- per acre, the present appeal is preferred.

3. Learned Government Pleader would submit that even if the formula of 10% normal increment is applied, the reference Court should have granted enhancemental increment of Rs.800/- + Rs.800/-, totaling Rs.1600/-, and on that basis going by the market value fixed by the Land Acquisition Officer, the reference Court should have enhanced the compensation from Rs.10,000/- per acre to Rs.12,000/- per acre.

4. This argument ignores the fact that the market value fixed by the Land Acquisition Officer for the lands in Mendora Village stood revised by answering the reference made to the reference Court is O.P.No.140 of 1990 and consequently, the market value stood revised to Rs.23,000/- per acre. If the formula of 10% incremental addition for every passing year is to be adopted, then for two year gap in between the lands which stood acquired in Mendora Village and the present notification, Rs.2,300/- + 2,300/- totaling Rs.4,600/-, should have been added to Rs.23,000/- making the value of the land standing at Rs.27,600/-. As against this, the reference Court adopted a very conservative method and also taking into consideration the fact that Mendora Village is adjoining to Kodcherla Village and in spite of time lag of two years in between notifications, enhanced the market value from Rs.10,000/- per acre to Rs.24,000/- per are. Since the respondents have not preferred any cross appeal complaining about inadequate fixation of market value by reference Court, the market value as determined by the reference Court is liable to be upheld.

5. In all other respects, we do not find any merit in this appeal and the grounds urged by learned Government Pleader are not sustainable. Hence, this appeal stands dismissed, however, without costs. Two months' time is granted for depositing the balance compensation amount from today, and upon such deposit, in terms and in accordance with the award, the respondents/claimants are entitled to withdraw the same without furnishing any security. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

NOOTY RAMAMOHANA RAO, J

ANIS,J

NOVEMBER 16, 2015

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THE HON’BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
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WRIT PETITION No.21578 OF 2015

DATE: 28.07.2015

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