

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

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APPEAL SUIT No.2060 OF 2003

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

This is an appeal filed by the Land Acquisition Officer assailing the Order, dated 26.04.2002, of learned Additional District Judge, Nizamabad, passed in Original Petition No.414 of 1994.

2. The facts, in brief, are as follows:

On the requisition of the Executive Engineer, I.D. IB Division, Nizamabad, the land in an extent of Acs.3-36 guntas, in Sy.Nos.424/AA and 424/E of Abhangapatnam village was acquired by the Government as the said land was coming under the submergence of Mahantham Cheroo. A notification, under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was issued on 19.01.1994. The Award was passed on 14.06.1994. Possession was taken on 18.01.1963. After due award enquiry, the Land Acquisition Officer had determined the compensation at the rate of Rs.15,000/- per acre. Having not been satisfied with the compensation awarded, the claimant had sought a reference to the Civil Court by filing an application under Section 18 of the Act before the District Collector. On the reference made, O.P.No.414 of 1994 was taken on file by the learned District Judge. At trial, the claimant and his supporting witnesses were examined as RWs.1 to 3 and exhibits B1 and B2 were exhibited. No oral evidence was adduced on the side of the referring Officer, but the award copy was exhibited as exhibit A1. Having regard to the evidence on record, the reference Court enhanced the

compensation to Rs.35,000/- per acre. Therefore, the Government had preferred this appeal.

3. We have heard the submissions of the learned Government Pleader for Appeals appearing for the appellant and the learned counsel for the 2nd respondent, who was impleaded on the death of the 1st respondent during the pendency of this appeal. We have perused the material on record.

4. The learned Government pleader would contend as follows:
- 'The enhancement of compensation from Rs.15,000/- per acre to Rs.35,000/- per acre and the reliance placed on exhibits B1 and B2 and the oral evidence of RWs1 to 3 is erroneous. Under exhibit B1, a small extent of land was sold. The lands covered by exhibits B1 and B2 are not comparable to the acquired land. The land covered by exhibit B2 is of a different village. The claimants have not filed any sketch to show the proximity of the acquired land to the land covered by exhibit B2 and that therefore, the evidence of RW3 is unreliable.'

5. On the other hand, the learned counsel for the 2nd respondent would contend that the reference Court had accurately considered the facts and had appreciated the evidence in proper perspective and had correctly determined the compensation having regard to the potentiality of the land and other relevant facts and that there is no merit in the appeal and that the appeal is liable to be dismissed.

6. Now the only point for determination is as to whether the compensation determined by the reference Court is not just and fair in the facts and circumstances of the case, as contended by the LAO/appellant?

7. There is no dispute about the facts, which are narrated supra. We have gone through the material record including the evidence. RW1 is the claimant. He deposed about the nature of the soil of the land, which is black cotton mixed soil and its fertility and the net income of Rs.20,000/- per acre which he used to get from the land. According to him, Abbapur, Navipet, Hankampet and Sarangapur are neighbouring villages and that the acquired land is situate at a distance of half a furlong from the road leading to Basar from Nizamabad and that Railway Station is at a distance of one furlong and that the Mandal Office is situate by the side of the Railway Station and that the village Abhangapatnam is well developed and is having all facilities like educational institutions, bank and other offices. According to him, his land is also fit for use as house sites being close to a road. RW2 while speaking about the transaction under exhibit B1, which is a copy of sale deed, had testified that he sold Ac.0.13 guntas of land of the same village to one Aluru Ravinder about 13 years back for a consideration of Rs.10,000/- and had executed the said registered sale deed and that the distance between the said land and the acquired land is about 200 yards. Exhibit B1 is dated 24.06.1991 and it is nearly three years prior to the issuance of the notification. Therefore, exhibit B1, the copy of sale deed, would show that land situate at a distance of 200 yards from the acquired land was sold for a consideration of about Rs.30,800/- per acre about three years prior to the acquisition. RW3 had stated that Government had acquired lands in Abhangapatnam village about ten or fifteen years back, for providing house sites to weaker sections of the society and that at that time, the LAO had determined the compensation at the rate of Rs.15,000/- per acre

and that the claimants had received compensation under protest and that the civil court had enhanced and fixed compensation at the rate of Rs.12/- per square yard and that the said lands covered by OP.400 of 1993 are situate adjacent in the hamlets of different villages. He had exhibited exhibit B2, the certified copy of the judgment in the said OP.400 of 1993. According to him, the subject lands are more fertile than the lands covered by exhibit B2. Considering the evidence on record and potentiality of the land, compensation was determined at the rate of Rs.35,000/- per acre by the Court below. In our considered view, the sale transaction under exhibit B1, as per the evidence brought on record, can be considered as safe guidance if not exemplar; further, no evidence was brought on record to show that the transaction under exhibit B1 is a collusive transaction. Therefore, having considered analytically the evidence on record, we find no reason to interfere with the Order of the reference Court whereby the compensation was determined @ Rs.35,000/- per acre. Therefore, we find no merit in the appeal.

8. 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

JUSTICE M.SEETHARAMA MURTI

Date:17.03.2015

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