

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

A.S. No. 628 OF 2003

J U D G M E N T: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

The Land Acquisition Officer preferred this Appeal under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act'), calling in question the enhanced fixation of the market value for the acquired lands at Rs.15/- per square yard by the Additional District Judge's Court at Nizamabad (civil Court), which entertained the reference made under Section 18 of the Act.

The State has acquired land of an extent of Acs. 7.28 guntas situate in Akloor Village, Velpoor Mandal, Nizamabad District for providing house sites to the poor. The notification under Section 4(1) of the Act has been published in Nizamabad District Gazette No. 63, Issue dated 05.03.1994. The Land Acquisition Officer passed Ex.A1 Award fixing the market value at Rs.12,000/- per acre. Not being satisfied with this fixation, a reference to civil Court under Section 18 of the Act was sought for and that is how O.P.No. 68 of 1995 came to be entertained by the learned Additional District Judge at Nizamabad. During the course of trial, the claimants have examined R.Ws.1 to 4 and also got marked Exs.B1 to B3. Though none went into the box on behalf of the Land Acquisition Officer, but however, during the course of cross-examination of R.W.1, the copy of the Award was got marked as Ex.A1.

R.W.1 has brought out that Akloor Village is nearer to the mandal headquarter and also the main road, which connects Nizamabad with Armoor, an important town in the district. It was also pointed out that Chengal Village is towards West of Akloor Village at a distance of 2 K.Ms. Though these lands were used for raising commercial orchards earlier, but however, they were laid out and developed into housing colonies, in view of the proximateness of the lands to the existing 'abadi'. It is also pointed out that Mothe Village is another adjoining village, which is towards North of Akloor at a distance of 2 K.Ms. Bada Bheemgal is one of the important villages in the district which is at a distance of 3 K.Ms. towards East and thus, the importance and significance of Akloor Village is brought out. It is further urged that Akloor Village is close-by to the main road, whereas Bada Bheemgal,

Mothe and Chengal Villages are slightly at a distance from the mandal headquarters. Ex.B1 is the registration extract of a sale deed, dated 23.12.1998. As was noticed earlier, the notification issued under Section 4(1) of the Act was much earlier thereto, having been published on 07.03.1994 and hence, Ex.B1 cannot be looked into for the purpose of determining the market value of the land acquired. Similarly, Ex.B2 is also the registration extract of a sale deed dated 10.12.1993 which is hardly three months prior to the date of the notification. This apart, Ex.B2 covers a sale transaction of 200 square yards. When the land acquired is more than Acs.7.20 guntas, for the purpose of determining its market value, a sale transaction covering 200 square yards may not offer a reliable platform and hence, the market price which 200 square yards may have fetched can possibly be much higher when transaction for sale/purchase of large extents of land of more than Acs.7.20 guntas is undertaken. Therefore, Ex.B2 also does not come to the rescue of the claimants.

It will be relevant to notice that the certified copy of the judgment rendered by this Court in A.S. No. 2484 of 1989 dated 10.09.1996 was marked as Ex.B3. The said Appeal was preferred by the Land Acquisition Officer aggrieved by the determination of the market value by the civil Court in O.P. No. 84 of 1985. The said O.P. relates to the land acquired in Mothe Village in the year 1984. R.W.4 is one such person, whose land in Mothe Village has been acquired. The Land Acquisition Officer has fixed the market value at Rs.12,000/- per acre and the civil Court fixed the market value, taking all relevant factors into account and consideration, at Rs.10/- per square yard. But however, this Court, taking all relevant factors into consideration, had arrived at the market value at Rs.20/- per square yard and after deducting one-fourth of its value towards the obligation for providing civic amenities, fixed the compensation at Rs.15/- per square yard for the land acquired in Mothe Village and thus, enhanced the compensation from the one fixed by the civil Court in O.P. No. 84 of 1985.

Based upon Ex.B3 certified copy of the judgment of this Court rendered in A.S.No. 2484 of 1989 dated 10.09.1996, the civil Court, in the instant case, has fixed the market value at the same rate of Rs.15/- per square yard. It is against this enhancement, the present Appeal has been preferred.

The learned Government Pleader for Appeals (Telangana) would contend that no material has been brought on record to demonstrate by the claimants that the nature of the land acquired and the nature of the land in Mothe Village, which is, in

fact, the subject matter of consideration by the civil Court in O.P. No. 84 of 1985, is one and the same and hence, the market value fixed for the land acquired in Mothe Village cannot offer a valid platform for drawing comparison with the lands stood acquired in Akloor Village.

Per contra, Sri N. Sridhar Reddy, learned counsel for the claimants would submit that R.W.1, in so many words, has brought out the features, which are available in Akloor Village, in comparison to several other neighbouring villages, including Mothe Village. Akloor Village is, in fact, more closer towards the mandal headquarters, namely Velpoor and Mothe Village is at a distance of nearly 2 K.Ms. on the Northern side to the lands acquired. Therefore, if the lands in Mothe Village, which are slightly far away from the main road connecting Nizamabad to Armoor, could fetch Rs.15/- per square yard, lands in Akloor Village should get nothing less than Rs.25/- per square yard.

Having taken into account and consideration the fact that the land in question has been acquired for providing house sites, we consider that the civil Court has not committed any error in fixing the market value by taking into account the value per square yard keeping in mind the potentiality of the land to be laid out and developed into a housing colony. There is also no denying or disputing the fact that Akloor Village is located more proximately towards the mandal headquarters than Mothe Village. The land in Mothe Village was also acquired for providing house sites to the economically-weaker sections. In such circumstances, this Court, while entertaining A.S. No. 2484 of 1989, by its judgment dated 10.09.1996, has enhanced the compensation from Rs.10/- to Rs.15/- per square yard.

It is true that this Court, while fixing the market value, has provided for a remission of 25% towards providing civic amenities though it should have been at 30%. But however, in our opinion, that may not make much of a difference to the present case for the reason that while dealing with acquisition of land, which took place in the year 1984, this Court fixed the market value at Rs.15/- per square yard. By granting a reasonable enhancement of such market value, it would be safer to infer that due to the passage of a decade's time, the market value could have been anywhere around Rs.30/- to 40/- per square yard by 1994. Deducting one-third thereof would conservatively fetch the market value of at least Rs.20/- per square yard, whereas the civil Court, in the instant case, has only awarded the market value

at Rs.15/- per square yard.

We are therefore, of the opinion that there is no merit in this Appeal and in fact, the determination of market value indulged in by the civil Court in the instant case is an absolutely conservative one. We therefore, see no reason to interfere with the order passed in O.P. No. 68 of 1995. This Appeal fails and it is accordingly, dismissed, but however, without costs.

Consequently, the miscellaneous Applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

ANIS, J

03rd February 2016

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