HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

A.S. No.4192 of 2003

JUDGMENT: (*per Hon'ble Sri Justice V. Ramasubramanian*)

Aggrieved by the refusal of the reference court to enhance the compensation fixed for the lands acquired, the land owners have come up with the above appeal under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act').

2. Heard Sri P.Sridhar Reddy, learned counsel for the appellants and Sri A.V.Sivaiah, learned Government Pleader for Appeals (AP).

3. The land of an extent of Ac.8.88 cents in Sy.No.449-5(B) and the land of an extent of Ac.0.98 cents in Sy.No.449-5 A2 C/1, in Kanigiri town, Prakasam District, was sought to be acquired for the purpose of providing house sites to the weaker sections of the Society and for the purpose of construction of a hostel building. The Notification under Section 4(1) of the Act was published on 18.03.1993.

4. After enquiry, the Land Acquisition Officer, passed an award in Award No.13/1993-94 dated 30.10.1993, fixing the compensation payable for the total extent of Ac.9.86 cents at Rs.30,000/- per acre. Contending that the compensation fixed was very low, the owners sought a reference under Section 18 of the Act.

5. The reference was taken up by the Senior Civil Judge, Kandukuru, in LA OP No.95 of 1994 and the learned Senior Civil Judge confirmed the compensation fixed by the Land Acquisition Officer. Therefore, the land owners are before us.

6. The Land Acquisition Officer took note of the fact that about 137 sale transactions had taken place, after 20.01.1988, the date of taking possession up to the date of fresh publication made on 17.03.1993. After rejecting a majority of the sale transactions as relating either to small extents of land or relating to land located far away, the Land Acquisition Officer took note of data sale at Sl.No.98, that took place on 20.08.1990. The land sold under the said document was in Sy.No.433 and the rate per acre indicated in the document was Rs.24,727/-. The extent of land sold there under was 55½ cents. Therefore, considering the fact that the said transaction had taken place three years before the date of the Notification under Section 4(1), the Land Acquisition Officer fixed the market rate at Rs.30,000/- per acre. Incidentally, the Land Acquisition Officer also noted that the market rate prevailing as on the date of award was Rs.12/- per square yard, which works out to Rs.58,080/-.

7. Before the reference court, one of the land owners was examined as PW.1 and the copies of seven sale deeds were marked as Exs.A.1 to A.7. The Revenue Divisional Officer was examined as RW.1 and he field two documents. The award itself was filed as Ex.B.1 and sale deed dated 02.11.1993 was filed as Ex.B.2.

8. The reference court rejected the sale deeds Exs.A.1 and A.4, as they related to a period at least 6 to 7 years before the Notification under Section 4(1). The reference court also rejected Ex.A.3, as it was of a date eight years later than the Notification under Section 4(1).

9. The other sale deeds relied upon by the land owners were rejected by the reference court on the short ground that they related to certain lands, whose proximity to the lands acquired, was not known.

10. After thus rejecting all the documents relied upon by the land owners, the reference court took up Ex.B.2 dated 02.11.1993 for consideration. This sale deed had been executed eight months after

the date of notification under Section 4(1). The land sold under Ex.B.2 was situated in Sy.No.449-5(2). In other words, the land covered by Ex.B.2 was part and parcel of the survey number, in which the land acquired was also located. Therefore, the reference court found that Ex.B.2 is the nearest document both in terms of date as well as in terms of the location. Under the said document, the land of an extent of about Ac.3.98 cents had been sold for Rs.1,20,000/-. Therefore, the reference court thought that the fixation of market value at Rs.30,000/- per acre was perfectly justified even as per Ex.B.2.

11. Therefore, it is contended by the learned Government Pleader that on the basis of Ex.B.2 and also on the basis of reasoning contained in the judgment of the reference court, there is no scope for any enhancement.

12. But unfortunately what the reference court omitted to take note of is the fact that as per the recitals contained in Ex.B.2, the parties to the sale deed had already entered into an agreement on 12.01.1987. Under the said agreement, the entire sale consideration of Rs.1,20,000/- was paid on 12.01.1987 and possession was also delivered. This is why the Registration Authorities actually collected stamp duty not on the sale consideration reflected in Ex.B.2, but on the presumptive market value of Rs.4,81,580/-, arrived at on the basis of the guide line valuation of Rs.1,20,000/- per acre. This fact has been completely omitted to be taken note of by the reference court.

13. Another important aspect omitted to be taken note of by the reference court is that though the sale deeds Exs.A.2, A.5, A.6 and A.7 related to the lands in Sy.Nos.463, 444 and 448, the schedules to those sale deeds indicated that one of the boundaries to each of those lands, was the land in Sy.No.449/5. Therefore, despite the fact that no topo sketch was filed, the fact that the land acquired was adjoining and was one of the boundaries for the lands covered by Exs.A.2, A.5 and

A.7, were not at all in doubt. Hence, the reference court committed a second mistake in thinking that the proximity of the lands covered by Ex.A.2, A.5, A.6 and A.7 to the acquired land was not known. The proximity was actually borne out by the description of the property contained in the schedules to these documents.

14. Thus, the reasoning given by the reference is completely flawed on the aforesaid two counts. Once this is clear, then as a court of appeal under Section 54, we will have to see what would be the ideal market value, that should have been fixed by the reference court.

15. This question is not very difficult to be answered, as there is a correlation between Exs.A.2 and B.2. Ex.A.2 is a sale deed dated 06.02.1992. The date of the sale is one year prior to the date of Notification under Section 4(1). The land covered there under is in Sy.No.463. The land acquired was located in Sy.No.449/5-A2(B) and it was the eastern boundary for the land sold under Ex.A.2. Therefore, the market value indicated in Ex.A.2, could easily be taken to be the true reflection of the market value of the land acquired, in view of the nearness of the location (actually adjoining) to the acquired land and also the date of sale.

16. What flows out of Ex.A.2 is also correlated by one thing in Ex.B.2. In Ex.B.2, the land in Sy.No.449/2C2, has been valued for the purpose of payment of stamp duty, at Rs.1,20,000/- per acre.
The market value reflected in Ex.A.2 is Rs.1,22,640/- and the market value reflected under Ex.B.2 is Rs.1,20,000/- per acre.

17. However, it is contended by the learned Government Pleader that all the sale deeds relied upon by the land owners, related to the lands of smaller extents and that therefore, they cannot be a true indicator of the market value of a large extent of land, namely Ac.9.86 cents.

18. It is true that what was sold under Ex.A.2 was only a small extent. But the Government itself has fixed the very same market value even under Ex.B.2 that related to the extent of Ac.3.98 cents.
The Government themselves did not discriminate between a small extent of land and large extent of land, while fixing the value under Ex.B.2.

19. Moreover, there is no absolute embargo for looking into the sale value of small extents of land, for determining the market value of a larger extent of land. In **P.RAM REDDY v. LAND ACQUISITION OFFICER**[1], the Supreme Court pointed out in para 17 of the report that when small extents of land sold for a price as compared with the acquired large extent of land, the market value of which is required to be determined is not so insignificant, the Court can examine the possibility of the larger extent being sold as small extents of land.
In the case on hand, the land covered by Ex.B.2 is of the extent of Ac.3.98 cents. Therefore, the market value as fixed by the Government under Ex.B.2, cannot be treated as the value of a small plot of land.

20. Again, in **THE LAND ACQUISITION OFFICER v. NOOKALA RAJAMALLU**[2], the Supreme Court pointed out that it cannot be laid down as an absolute proposition that the rates fixed for the small plots cannot be the basis for fixation of the market value of a larger extent of land. Similarly, in **NIRMAL SINGH v. STATE OF HARYANA**[3], the Supreme Court held that sale instances in relation to small pieces of land situate near the acquired land can be considered, subject to (i) reasonable deductions for developmental costs (ii) the evidence that these lands can be compared to the acquired land in terms of vicinity and comparable benefits with advantages. Therefore, the contention of the learned Government Pleader that Ex.A.2 cannot form the basis for determining the market value of the acquired land, cannot be accepted.

21. Therefore, we are of the considered view that the reference court ought to have fixed the compensation at Rs.1,20,000/- per acre as reflected in Exs.A.2 and B.2. At the most, the reference court could have deducted one third or one fourth towards developmental charges, on this ground. But neither the Land Acquisition Officer nor the reference court has taken note of any development. Therefore, we go only by the rule of thumb by deducting one fourth towards developmental charges.

22. In the result, the appeal is allowed fixing the compensation for the acquired land at Rs.90,000/- per acre (Rs.1,20,000/- less 25% towards developmental charges). The claimants will be entitled to all other benefits including interest on solatium and additional compensation as per statutory provisions and insofar as the solatium is concerned, the land owners will be entitled as per the judgment rendered by the Hon'ble Supreme Court in '***Sunder Vs. Union of India***[4]'. There will be no order as to costs. Miscellaneous petitions pending if any this appeal, shall stand closed.

V.RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

Date: 08.07.2016
BSS

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
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Date: 08.07.2016

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[1] (1995) 2 SCC 305

[2] (2003) 12 SCC 334

[3] (2014) 2 SCC 160

[4] AIR 2001 SC 3516