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JUDGMENT:- (per Hon’ble Sri Justice A. Shankar Narayana)

The instant appeal is preferred by the claimants against the order dated 09.07.2013 made in O.P.No. 7 of 2011 on the file of the Senior Civil Judge, Gadwal having got dissatisfied with the fixation of market value at Rs.25/- per square meter as against the claim of the claimants at Rs.1,000/- per square yard, seeking enhancement of compensation by fixing the market value at Rs.395/- per square meter based on certain sale transactions which documents have been exhibited by the claimants before the civil Court.

We briefly set out the facts that are absolutely relevant.

By publication of Notification under Section 4(1) of the Land Acquisition Act, 1894 (for brevity “the Act”), the Government acquired a total extent of Ac.175.33 cents for the purpose of excavation and formation of embankment of parallel canal to P.J.P. (LMC), and the Land Acquisition

Officer, having taken into consideration the sales statistics for the relevant period preceding the date of notification, fixed the market value at Rs.64,500/- per acre for dry lands, Rs.74,500/- per acre for irrigated dry lands and Rs.89,500/- per acre for wet lands thus, making them into three categories and passed an Award No.21 of 2010 dated 27.03.2010. The claimants, having got dissatisfied, made a request for reference under Section 18 of the Act to the civil Court, and accordingly, the same were referred and the civil Court registered it as O.P.No. 7 of 2011.

The claim before the Reference Court was that since the lands are abutting Sreeramnagar Railway Station, there is a great potentiality for house-sites in Atmakur town and fetch about Rs.800/- to Rs.1,000/- per square yard and for commercial purpose, the value of the land would be from Rs.1,200/- to Rs.2,000/- per square yard and the sale data available also reflects the same, and, therefore, sought to fix the market value at Rs.1,000/- per square yard.

During the enquiry, the claimants examined PWs.1 to 10 and marked Exs.A1 to A17 whereas, on behalf of the Land Acquisition Officer, one Razia Begum, Special Deputy Collector, examined herself as RW1 and marked the Award as Ex.B1.

The Reference Court has fixed the market value at

Rs.25/- per square meter. It is stated in the grounds that the Reference Court, somehow, did not properly appreciate the evidence on record more particularly, the sale transactions under Exs.A6 to A10 with the preceding notification under Section 4(1) of the Act and based on the suggestions made to PWs.1 and 2 though, bluntly denied by him, still, fixed the market value at Rs.25/- per square meter uniformly, and even, somehow, recorded a finding that the acquired lands are situated at a distance of 10 kms away from Atmakur town, though, there is positive evidence on record to show that the acquired lands are situated within only half a kilometer's distance from Atmakur Mandal Head Quarters as admitted by RW1 and, thus, there appears to be no proper appreciation of evidence on record by the Reference Court.

Heard Sri D. Prakash Reddy, learned senior counsel for the appellants-claimants and the learned Government Pleader for Appeals.

The subject matter in the instant appeal relates to an extent of Ac.15.32 cents as against the total extent of Ac.175.33 cents acquired for the purpose aforementioned. During the course of arguments, it is brought to our notice that there are two more reference in O.P.Nos.28 and 26 of 2011 pending on the file of the Reference Court filed by one M.Venkataiah and 29 others and S.Nagaraju and 29 others respectively, which are at

the stage of enquiry and for filing of written statement respectively. Since Exs.A6 to A10 are not at all properly looked into and the evidentiary value thereof was not examined by the Civil Court and also recording a finding which is totally erroneous and fixing the market value at Rs.25/- per square meter just based on the denial suggestions by PWs.1 and 2, we are of the view, that proper appreciation of evidence on record in arriving at the market value was not done by the Reference Court. No doubt, the learned counsel for the claimants urged to dispose of the instant appeal finally without remitting the matter to the civil Court, but we are of the view, that a chance for reappraisal of evidence by the appellate Court would be deprived to the aggrieved party. We are, therefore, of the view that interest of justice would be met in remitting the matter to the Reference Court with a direction to dispose of the O.P. within a definite time frame.

Hence, the matter is remitted to the Reference Court with a direction to dispose of the matter within a period of six months from the date of receipt of a copy of this order by affording chance to both sides if they so intend to let in further evidence. Hence, the award and decree passed by the Reference Court are hereby set aside. We also direct the Reference Court to dispose of O.P.Nos.28 and 26 of 2011 along with O.P.No. 7 of 2011 in case the

aforesaid two O.Ps. are connected with O.P.No. 7 of 2011 and fall under one and the same notification issued under Section 4(1) of the Act.

Accordingly, the appeal is disposed of. No order as to costs.

As a sequel to the disposal of the Appeal, Miscellaneous Petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

27.04.2016

**A. SHANKAR
NARAYANA,J**

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