HON'BLE SRI JUSTICE G. CHANDRAIAH
&
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

L.A.A.S. No. 230 of 2006

DATE: 08.03.2016

Between:

The Special Deputy Collector
S.L.B.C.(L.A.O), Nalgonda .. Appellant

And

Dandapally Bixam
and 14 others .. Respondents

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

Being aggrieved by the order dated 19.07.1994 passed in O.P.No. 55 of 1990 on the file of the Court of the Subordinate Judge at Nalgonda, the Special Deputy Collector, S.L.B.C. (L.A.O.), Nalgonda has preferred the instant appeal mainly on the ground that the market value enhanced by the Reference Court was arbitrary and excessive.

The fact situation would reflect that by issue of Notification under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act") published on 24.06.1989, the Government acquired a total extent of Ac.16.21 guntas of land which was categorized as "A" & "B". The Land Acquisition Officer, based on the nature of soil, grouped red soil chelka land as "A" category consisting of extents of Ac.0.04 guntas in Sy.No.116/2 and Ac.5.01 guntas in Sy.No.119/2 and black cotton soil chelka land as "B" category consisting of Ac.11.16 guntas in Sy.Nos. 120/2, 122/2, 3, 123/2, 131/2A to 2C, 132/2A to 2B and Sy.No.134/2A to 2C situated in Kattangur village of Kattangur Mandal for construction of S.L.B.C. Canal from

108.400 kms. to 109.250 kms. The Land Acquisition Officer, having considered the sales statistics, fixed market value at Rs.1,650/- per acre so far as “A” category lands are concerned and Rs.4,750/- per acre so far as “B” category lands are concerned. The respondents – claimants, being dissatisfied with the said fixation of market value, made a request to the Land Acquisition Officer to refer the matter to the Civil Court under Section 18 of the Act, and accordingly, the matter was referred to the Subordinate Judge, Nalgonda which was numbered as O.P.No. 55 of 1990.

During enquiry, on behalf of the claimants, PWs.1 to 3 were examined and Exs.X1 and X2, which are registered sale deeds dated 15.11.1988 and 04.08.1988 through PWs.2 and 3, who are the vendees therein, respectively, were marked. On behalf of the Land Acquisition Officer, no witness was examined nor any documents were filed. The Reference Court, having analyzed the evidence on record, both, oral and documentary, in the light of the claim made by the claimants at Rs.50,000/- per acre, discarded the value mentioned in Exs.X1 and X2, but, however, taking into consideration the potentiality of the land and the reasons assigned therefor, enhanced the market value from Rs.1,650/- to Rs.10,000/- per acre for the lands belonging to “A” category and from Rs.4,750/- to Rs.15,000/- per acre to the second category of lands.

It is the aforesaid order which is under challenge in the instant appeal, preferred by the Land Acquisition Officer contending in the grounds that the Reference Court is not right in enhancing the market value and the Land Acquisition Officer fixed the market value based on the sales statistics and there was no proof of income placed by the claimants for raising commercial crops in the acquired lands, and therefore, sought to set aside the order and decree passed by the Reference Court.

Heard the learned Government Pleader for Appeals appearing on behalf of the appellant.

None appears for the respondents in spite of service of notices on the claimants.

We have perused the order under appeal and the material available on record. Concerning Exs.X1 and X2, PWs.2 and 3 are purchasers and through them those documents were exhibited. Ex.X1 is a registered sale deed dated 15.11.1988, under which, an extent of Ac.2.00 guntas was sold for a consideration of Rs.17,500/- thus indicating per acre it works out to Rs.8,750/-. PW2 has stated that the acquired lands are adjoining National Highway No.9 having black cotton soil with potentiality and under Ex.X2 – registered sale deed dated 04.08.1988, a house plot covering an extent of 492.50 square yards was sold for a sale consideration of Rs.17,300/-. The Reference Court, having examined the evidence of PWs.2 and 3, recorded a finding that the values mentioned in Exs.X1 and X2 do not reflect correct market value prevailing at the time of acquisition and thereby overlooked the rates mentioned therein. However, keeping in view, the location of the lands and the nature of soil and potentiality as reflected from the record, felt that it would be reasonable to enhance the market value from Rs.1,650/- to Rs.10,000/- and from Rs.4,750/- to Rs.15,000/- for A & B categories of lands respectively, and accordingly, awarded the same with all statutory benefits.

The finding recorded by the Reference Court in refusing to accept the prices mentioned in Exs.X1 and X2 is based on appreciation of evidence. So far as the potentiality of the land is concerned, the evidence of PWs.1 to 3 would clearly indicate that the village is situated on National Highway No.9 connecting Nalgonda t o Vijayawada Highway via Nakrekal from Hyderabad. Keeping in view, these factors and the nature of the lands i.e. black cotton soil so far as “B” category lands are concerned and red soil chelka so far as “A” category lands are concerned, the fixation of market value by the Reference Court at Rs.10,000/- and Rs.15,000/- per acre respectively, cannot be held as excessive or arbitrary.

Thus, we find no merit in the instant appeal, and accordingly, the appeal is dismissed confirming the order and decree dated 19.07.1994 passed by the Reference Court in O.P.No. 55 of 1990. No order as to costs.

As a sequel to the dismissal of the Appeal, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

08.03.2016

A. SHANKAR NARAYANA,J

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