

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND**

THE HON'BLE MS.JUSTICE J. UMA DEVI

+ L.A.A.S. Nos.274 of 2013 & 61 of 2016

AND

WRIT PETITION No.32034 of 2018

% Date:14.11.2018

Between:

L.A.A.S. No.274 of 2013:

The Land Acquisition Officer, Revenue Divisional Officer,
Nizamabad District.

... Appellant

v.

\$ A.V. Mahipal Reddy S/o.Pratap Reddy,
Yellammagutta, Nizamabad.

... Respondent

L.A.A.S. No.61 of 2016:

The Land Acquisition Officer, Revenue Divisional Officer,
Nizamabad District.

... Appellant

v.

\$ A.V. Naryana Reddy S/o.Pratap Reddy,
Banjara Hills, Hyderabad (died Per L.Rs.)
Smt. Uma Narayana Reddy W/o.A.V.Narayana Reddy
and another.

... Respondents

WRIT PETITION No.32034 of 2018:

A.V. Narayana Reddy died per LR.

Smt.Uma Narayana Reddy W/o.A.V. Narayana Reddy
And another.

... Petitioners

v.

the Land Acquisition Officer – Revenue Divisional Officer,
Nizamabad and others.

... Respondents

! For Appellants

: Government Pleader for Appeals

^ For Respondents

: Mr. K.M. Mahender Reddy

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> Head Note

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? Cases Referred

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Nil

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

LAND ACQUISITION APPEAL SUIT Nos.274 of 2013 & 61 of
2016
AND
WRIT PETITION No.32034 of 2018

COMMON JUDGMENT: *(Per V. Ramasubramanian, J)*

Both the Land Acquisition Appeals are filed under Section 54 of the Land Acquisition Act, 1894, by the Land Acquisition Officer questioning the enhancement of compensation granted by the Reference Court. The Writ Petition is filed by the land owners seeking a Mandamus to direct the respondents to make payment of the compensation as awarded by the Reference Court. Since all the proceedings arise out of a common cause, they were taken up together. In fact, the Government did not come up with any application for stay pending disposal of the appeal, which forced the land owners to come up with the writ petition seeking a direction to disburse the amount.

2. Heard the learned Government Pleader for Appeals (TG) and Mr. K. Mahender Reddy, learned counsel for the claimants.

3. By a notification dated 14.07.1999, issued under Section 4 (1) of the Act, the Land of a total extent of ACs.8.02 guntas belonging to two different individuals, located at Honnajipet Village, Sirikonda Mandal, Nizamabad District, was sought to be acquired for the purpose of providing house sites to the weaker sections of the society.

The possession of the land was taken on 02.09.1999. On 13.06.2000, the Land Acquisition Officer passed an award fixing the market value of land at Rs.24,000/- per acre. It is relevant to note that there were no data sales available during the relevant period which forced the Land Acquisition Officer himself to adopt capitalization method.

4. Upon a demand made by the land owners, namely, (1) A.V. Narayan Reddy and (2) A.V. Mahipal Reddy, who respectively owned lands of an extent of Acs.6.21 guntas and Ac.1.21 guntas (which totaled to ACs.8.02 guntas), the matter was referred to the Reference Court under Section 18 of the Land Acquisition Act in LAOP Nos.1400 and 1660 of 2002.

5. Before the Reference Court, one of the land owners i.e., A.V. Narayan Reddy was examined as PW.1. Two persons belonging to the same village were examined as PWs.2 and 3. The GPA holder of the other claimant, by name, A.V. Mahipal Reddy, was examined as PW.4. The vendees of documents Exs.A9 and A13 were examined as PWs.5 and 6. The pahanis for the years 1997-98, 1998-99, 1999-2000, 2000-2001 and 2001-2002 were filed as Exs.A2 to A6. Certain sale deeds were marked as Exs.A9 and A11 to A13. The copy of the judgment in a connected original petition was marked as Ex.A-10.

6. The Deputy Tahsildar examined himself as RW-1 and filed the copy of the award as Ex.B-1.

7. Since there were no data sales and since the Land Acquisition Officer himself went on the basis of capitalization method, the Reference Court analyzed the evidence on record with

respect to the annual income and applied a multiplier of '10' to come to the conclusion that the net value would be Rs.76,130/- per acre. Therefore, the Court fixed a compensation of Rs.80,000/- per acre.

8. The grievance of the Revenue, as projected by the learned Government Pleader in these appeals is that there was absolutely no evidence to indicate the annual income derived by the land owners from these lands and that therefore, the approximation made by the Reference Court was not correct. It is contended by the learned Government Pleader that the Land Acquisition Officer in his award correctly arrived at the annual yield and that therefore, the fixation of compensation on capitalization method by the Land Acquisition Officer could not have been assailed.

9. We have carefully considered the above submission.

10. As pointed out earlier, there is no alternative in the case on hand except to fix the market value on capitalization method, as the Referring Officer himself was left only with that alternative.

11. It is pointed out by the Reference Court that even according to the Land Acquisition officer, Maize was the principal crop raised in the village. The yield was taken at Rs.380/- per quintal, which worked out to a net income of Rs.1,560/- per acre. The Land Acquisition Officer accordingly fixed the market value at Rs.24,000/- per acre by applying the multiplier of '8'.

12. But, the Reference Court found that PW.1's land was acquired in another Mandal and he was paid compensation of

Rs.1,45,000/- per acre. It is true that his village was located 8 to 10 kilometers away from the village involved in this case.

13. Therefore, the Reference Court looked at the Pahanis filed as Exs.A2 to A4 and found that paddy was raised in a land of an extent of Acs.2.33 guntas. PWs.1 claimed that he raised paddy, turmeric and sugarcane and gained income of Rs.20,000/- per acre. P W.2 confirmed the same. PW.4 deposed that the claimants raised commercial crops such as turmeric, maize and vegetables and got a income of Rs.50,000/- per acre per annum.

14. Insofar as the yield of Maize is concerned, the Reference Court relied upon a decision of this Court dated 03.08.2009 in A.S. No.2213 of 1996 to come to the conclusion that the price of maize could be taken as Rs.150/- per quintal and price of turmeric could be taken at Rs.800/- per quintal. After deducting 50% towards expenditure for raising the crop and after applying a multiplier of '10', the market value of the land was arrived at in the said judgment as Rs.47,250/- per acre. The acquisition of land in that case related to the year 1982.

15. Therefore, the Reference Court came to the conclusion that the annual income from the land would be Rs.5,292/- per acre if paddy had been raised. This was on the basis of 540 quintals @ Rs.490/- per two crops. If maize and turmeric were raised, the Reference Court held that the income would come to Rs.15,225/-, by taking 15 quintals per yield @Rs.415/-. After deducting 50% towards expenditure for raising crops, the average income was arrived at by

the Court as Rs.7,613/-.On the said amount, the Reference Court applied a multiplier of '10' and arrived at the market value as Rs.76,130/- per acre.

16. We find nothing wrong with the reasoning adopted by the trial Court. The fact that the commercial crops were raised in the land is borne out by the pahanies produced before the Reference Court. Even the Land Acquisition Officer adopted capitalization method by accepting that there were commercial crops. Therefore, we do not think that the enhancement granted by the Reference Court, was arbitrary warranting interference in this appeal. Hence, both the appeals deserve to be dismissed, accordingly, they are dismissed.

10. Coming to the writ petition, the prayer is for a direction to the respondent to make deposit of the compensation. It appears that the Execution Petitions are already pending.

11. In view of the above, the writ petition is disposed of directing the respondents to work out the amounts payable as per the award of the Reference Court and make payment within a period of three (3) months from the date of receipt of a copy of this order.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

November 14, 2018
KTL