

**THE HONBLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HONBLE SRI JUSTICE A.SHANKAR NARAYANA**

L.A.A.S.Nos.667 of 2010 and 108 of 2011

Common Judgment: (Per the Hon'ble Sri Justice V Ramasubramanian)

Both these appeals are filed by the claimants under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act'), seeking further enhancement of compensation over and above that which was ordered by the reference Court.

Heard Mr. B. Thimma Reddy, learned counsel for the appellants and the learned Government Pleader for Appeals.

The land of an extent of Ac.4.60 cents in Survey No.265-A classified as "dry land" and the land of an extent of Ac.12.00 cents in Survey Nos. 306, 307, 308 and 310 classified as "irrigated dry land", in Thimmapuram Village, Yadiki Mandal, Anantapur District, were acquired for the purpose of formation of earth bund at Pendekallu Balancing Reservoir, by issuing a notification under Section 4(1) of the Act on 18.09.1993. Similarly, the land of an extent of Ac.2.13 cents in Survey No.273-B classified as "dry land" of Thimmapuram Village, Yadiki Mandal, was acquired for the same purpose, by issuing a notification under Section 4(1) of the Act on 24.09.1993. The Land Acquisition Officer passed two different awards, fixing the compensation at the rate of Rs.20,000/- per acre for the dry land and Rs.24,000/- per acre for the irrigated dry land.

Upon protest by the claimants, references were made to the Court of the Senior Civil Judge, Gooty. The references were taken on file as O.P.Nos.45 of 2001 and 4 of 2007.

In O.P.No.45 of 2001, one Mr.K.Sankara Rao was examined as P.W.1 on the side of the landowner. No one was examined on the side of the referring officer. Similarly, in O.P.No.4 of 2007, one Mr.M.Ramanjaneya Reddy was examined as P.W.1 and no one was examined on the side of the referring officer.

In O.P.No.45 of 2001, no documents were marked. In O.P.No.4 of 2007, four documents including three registered sale deeds were marked as Exs.A.1 to A.4.

By an award passed on 13.10.2006 in O.P.No.45 of 2001, the reference Court enhanced the compensation in respect of dry land, from Rs.20,000/- per acre to Rs.32,000/- per acre.

By a separate award dated 28.03.2008, passed in O.P.No.4 of 2007, the reference Court enhanced the compensation from Rs.20,000/- per acre to Rs.36,000/- per acre in respect of dry land and from Rs.24,000/- per acre to Rs.38,000/- per acre in respect of irrigated dry land. The referring Officer has accepted the enhancement so granted. However, the landowners have come up with these appeals.

Insofar as the dry lands are concerned, the issue is already covered by a judgment of a Division Bench of this Court dated 11.04.2014 passed in L.A.A.S.No.60 of 2009. By the said judgment, the compensation awarded by the reference Court at the rate of Rs.32,000/- per acre for dry land was enhanced to Rs.50,000/- per acre. The copy of the judgment produced before us shows that the land covered by the said judgment was also located in Thimmapuram Village and that the purpose of acquisition of that land also was for the formation of Pendekallu Balancing Reservoir. The date of the notification was also almost the same viz., 24.09.1993. Therefore, the appeals filed by the appellants, insofar as the compensation for dry lands is concerned, have to be allowed and the compensation has to be enhanced to Rs.50,000/- per acre for the dry lands, on the basis of the precedent already available on record.

Insofar as the irrigated dry lands are concerned, it is seen from the judgment of the reference Court in O.P.No.4 of 2007 that the existence of two bore wells was admitted even by the Land Acquisition Officer. In paragraph 6(b) of its judgment, the reference Court has indicated that there was a bore well in Survey Nos.306, 307, 308 and 310.

It is only due to the existence of the bore well that the Land Acquisition Officer himself maintained a difference between the compensation awarded for the dry land and the compensation awarded for the irrigated land. The Land Acquisition Officer maintained a difference of Rs.4,000/- per acre, which works out to about 20% of the compensation fixed for the dry land.

Independent of the above indication available in the award of the Land Acquisition Officer, there is no other material to grant compensation of Rs.70,000/- per acre as claimed by the appellants for the irrigated dry lands. Even the reference Court maintained a difference between the compensation for the dry land and the compensation for the irrigated dry land. Therefore, the appellants are certainly entitled to more compensation for the irrigated dry land than that was awarded for the dry land.

But insofar as the quantum upto which the difference should be maintained, the evidence on record is not sufficient. Therefore, we have no alternative except to apply the thumb rule on the basis of what was done by the Land Acquisition Officer. Hence, applying the very same ratio maintained by the Land Acquisition Officer in his award, we fix the compensation for the irrigated dry land at the rate of Rs.60,000/- per acre.

The appeals are accordingly allowed, the awards passed by the reference Court are modified, enhancing the compensation for the dry land to Rs.50,000/- per acre and for the irrigated dry land to Rs.60,000/- per acre together with all attendant benefits.

Pending Miscellaneous Petitions shall also stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

Date: 23.06.2016

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