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

Being aggrieved by the order dated 12.12.2000 passed in O.P.No. 3 of 1999 on the file of I Additional Senior Civil Judge, Warangal, the Special Deputy Collector-cum-Land Acquisition Officer, Warangal has preferred the instant appeal mainly on the ground that the market value enhanced by the Reference court was arbitrary and excessive.

Brief facts of the case are that the Reference Court, by order dated 12.12.2000, enhanced the market value to Rs.45,000/- per acre with all statutory benefits as against the market value fixed by the Land Acquisition Officer at Rs.25,000/- per acre. It is clear from the record that possession was taken only subsequent to the issue of Notification. Ac.2.24 guntas in Sy.No.77/14/3, Ac.0.38 guntas in Sy.No.77/13/2, Ac.1.09 guntas in Sy.No.1/2, Ac.1.24 guntas in Sy.No.2/2, Ac.0.01 gunta in Sy.No.4/2, Ac.1.35 guntas in Sy.No.5/2, Ac.0.06 guntas in Sy.No.6/2, Ac.1.06 guntas in Sy.No.7/2, Ac.0.21 guntas in Sy.No.8/2, Ac.1.16 guntas in Sy.No.9/2, Ac.0.10 guntas in Sy.No.77/11/2, Ac.2.10 guntas in Sy.No.77/10/2 and

Ac.7.37 guntas in Sy.No.77/1, thus, a total extent of Ac.21.37 guntas of land was acquired for the purpose of excavation of canal under 26R of DBM-38 from 6.000 to 8.000 kms. within the limits of Jakaram village, Mulug Mandal, Warangal District.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act") was issued on 10.02.1998 and the Land Acquisition Officer, based on the sales statistics for the relevant period preceding the notification, fixed the market value at Rs.25,000/- per acre by passing the award dated 31.03.1998. It appears that the Land Acquisition Officer fixed the market value mainly based on the market price shown in Ex.A1 - sale transaction dated 28.07.1987 as against the claim made by the claimants for fixation of market value at Rs.90,000/- per acre. Since the claimants were dissatisfied with the enhanced market value, they made a request to the Land Acquisition Officer to refer the matter to the Civil Court, and accordingly, the Land Acquisition Officer referred the matter under Section 18 of the Act to the Court of I Additional Senior Civil Judge, Warangal which was registered as O.P.No.3 of 1999 on its file.

During enquiry, the 4th claimant examined himself as PW1 and one J.Laxmaiah was examined as PW2 and marked Exs.A1 to A5. On behalf of the Land Acquisition Officer, the Special Deputy Collector examined himself as RW1 and marked Exs.B1 and B2 which are award and

award proceedings, dated 31.03.1998 respectively.

On appreciation of the evidence on record, the Reference Court, mainly based on the fixation of the market value by the very same Court in O.P.No. 49 of 1992, which order was marked as Ex.A3, and the decree as Ex.A4 and the Judgment of this Court in A.S.No. 735 of 1998 confirming the market value fixed by the said Court at Rs.45,000/- per acre, which is marked as Ex.A5, granted the same for the lands acquired in the instant appeal, as it appears, there were no independent sale deeds except Ex.A1.

Having got aggrieved by the aforesaid order and decree, the instant appeal is preferred by the Land Acquisition Officer contending in the grounds of appeal that the lands covered by Exs.A3 and A5 are situated in a different village and without there being any legally acceptable evidence, the market value fixed under Ex.A3 and confirmed by this Court under Ex.A5 cannot be adopted for the acquired lands, but the Reference Court just followed the said decision and enhanced the market value and, therefore, sought to set aside the award and decree and confirm the value fixed by the Land Acquisition Officer.

Heard the learned Government Pleader for Appeals appearing on behalf of the appellant. In spite of service of notices, none appears for the respondents.

We have perused the order under challenge and the

evidence on record.

It is clear from the evidence on record that the lands covered by Exs.A2 and A3 though, situated in a different village i.e. Mallampally village, from Ex.A2, it can be gathered that the said village is situated just adjacent to Jakaram village in which the lands under acquisition in the instant case are situated. Ex.A1 was marked by the claimants for the purpose to show that the Land Acquisition Officer has followed the rate mentioned therein. The evidence of PWs.1 and 2 and the observations made in Exs.A3 and A5 clearly show that the nature of the land acquired under Ex.A3 which was the subject matter therein and also Ex.A5 in A.S.No. 735 of 1998 and the lands under acquisition in the instant proceedings are alike in all respects, and in that view of the matter, the enhancement of market value by the Reference Court to Rs.45,000/- per acre cannot be found fault with as it is well-reasoned and based on appreciation of evidence and, therefore, does not warrant any interference.

We find no merit in the instant appeal, and accordingly, the appeal is dismissed. 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

09.03.2016

A. SHANKAR
NARAYANA,J

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