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

Being aggrieved by the order dated 06.12.1996 passed in O.P.No. 44 of 1994 on the file of the Court of the Subordinate Judge at Nirmal, the Revenue Divisional Officer-cum-Land Acquisition Officer, Nirmal 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 for establishment of 132/33 K.V. Electrical Sub-station, the Land Acquisition Officer initiated proceedings at the request of the Execution Engineer, T.E.C. Division, A.P.S.E.B., Nizamabad for acquiring Ac.5.12 guntas of dry land. The extents being Ac.3.01 guntas in Sy.No.154 with 3 lppal(Gulmoha) Trees situated in Akkapur village, Ac.1.03 guntas in Sy.No.154, Ac.0.02 guntas in Sy.No.155 and Ac.1.06 guntas with 1 (lppa Gulmoha) Tree in Sy.No.155 situated in Kondapur village, and thus, the total extent of Ac.5.12 guntas of land was acquired by issue of Notification under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act"), published on 22.03.1993. In

fact, possession of the land was taken on 10.05.1990. The Land Acquisition Officer, having conducted due enquiry and taking into consideration sales statistics for the relevant period preceding notification, fixed market value at Rs.6,000/- per acre. The claimants, being dissatisfied with the market value, made 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 Court of Subordinate Judge, Nirmal, Adilabad District.

Before the Reference Court, the claimants demanded a sum of Rs.1,25,000/- per acre. During enquiry, on behalf of the claimants, RWs.1 to 4 were examined and Exs.B1 and B2, which are copies of sale deeds dated 20.11.1985 and 02.12.1991 respectively, are marked, and the relevant witnesses being RWs.3 and 4, the Reference Court, on appreciation of the evidence on record, more particularly, the evidence of RWs.3 and 4 and placing reliance on Ex.B1 wherein the sale price is fixed at Rs.11,000/- per acre for an extent of Ac.03.00 guntas of land covered by Sy.No.236, enhanced the market value to Rs.11,000/- per acre and granted statutory benefits and interest for the first year at 9% per annum and thereafter 15% per annum from the date of taking possession of the land. It is the aforesaid order which is challenged in the instant appeal by the Land Acquisition Officer mainly contending that the extent of the land covered under

Ex.B1 is abutting the main road and cannot be considered as comparable sale, and therefore, the Reference Court went wrong in enhancing the market value and sought to set aside the same.

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 them.

We have perused the order and material on record.

The contents of Ex.B1 would show that the sale transaction has taken place on 20.11.1985 with the sale price at Rs.11,000/- per acre. In the instant case, notification under Section 4(1) of the Act was published on 22.03.1993. Thus, the sale transaction covered by Ex.B1 was eight years prior to the date of issue of the said notification. It is no doubt true that the land sold under Ex.B1 is not adjoining the acquired lands, but even, when kept in view that the sale transaction under Ex.B1 was a genuine one, certainly reliance placed on Ex.B1 by the Reference Court, cannot be faulted. Concerning the land sold under Ex.B2, we would like to observe that in fact, as seen from the evidence, the said land was subsequently divided into plots admeasuring 60' x 60' and each plot was sold for a consideration of Rs.4,000/-, and that that was the reason why the Reference Court excluded Ex.B2 and placed reliance on Ex.B1. Besides the same, when kept in view, the

potentiality of the land acquired, in our view, the order and decree fixing the market value at Rs.11,000/- per acre by the Reference Court, is just warranting no interference.

The learned Government Pleader for Appeals further submits that the Reference Court was not right in granting interest from the date of taking possession of the acquired lands and ought to have granted the same from the date of publication of notification. As already mentioned above, the possession of the acquired lands was taken on 10.05.1990 whereas notification was issued on 22.03.1993 under Section 4(1) of the Act. Hence, we modify the order and decree passed by the Reference Court granting interest for the first year at 9% per annum from the date of the notification i.e. from 22.03.1993 and for the subsequent period at 15% per annum. Since the petitioners were deprived of their possession and income from 10.05.1990, we grant 10% per annum towards damages from the date of taking possession of the land i.e. 10.05.1990 to 22.03.1993 placing reliance on the decisions of the Hon'ble Supreme Court in **R.L.Jain (D) by Lrs. v. DDA and Others**^[1] and **Tahera Khatoon and Others v. Revenue Divisional Officer / Land Acquisition Officer and Others**^[2].

Accordingly, the appeal is partly allowed to the extent indicated above. No order as to costs.

As a sequel to the allowing of the Appeal in part,

Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

08.03.2016

A. SHANKAR
NARAYANA,J

bcj

[\[1\]](#) AIR 2004 SC 1904

[\[2\]](#) 2014(2) ALD 1