

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

LAAS MP No.383 of 2016, LAAS MP No.1163 of 2015
and
L.A.A.S. No.123 of 2016

JUDGMENT: (*per Hon'ble Sri Justice V. Ramasubramanian*)

LAAS MP No.383 of 2016: This application is filed by the petitioner/appellant, seeking permission to file a better affidavit to explain the huge delay in filing the regular appeal as against the award of the Referring Court under the Land Acquisition Act, 1894 (for short 'the Act').

2. We have heard Sri M.Sudhakar Reddy, learned counsel for the petitioner/appellant and Sri A.V.Sivaiah, learned Government Pleader for the appeals.

3. The petitioner filed LAAS (SR) No.11793 of 2015, challenging the award passed by the referring court under Section 18 of the Act. Since there was a delay in filing the appeal, the petitioner came up with LAAS MP No.1163 of 2015 to condone the delay of 4017 days in filing the appeal. Since the affidavit filed in support of the said petition contained only broad reasons for the delay, the petitioner has come up with LAAS MP No.383 of 2016 seeking permission to file better affidavit.

4. Considering the averments contained in the affidavit filed in support of the petition, LAAS MP No.383 of 2016 deserves to be allowed. Accordingly the petition is allowed.

5. LAAS MP No.1163 of 2015: This is a petition to condone the delay of 4017 days in filing the appeal against the award passed by the Senior Civil Judge, Nandikotkur in OP No.101 of 1995 dated 16.06.2004, in a reference under Section 18 of the Act.

6. This is a case, which squarely falls within the para-meters laid

down by the Apex court in '*Dhiraj Singh vs. State of Haryana*^[1]', and '*Imrat Lal vs. Land Acquisition Collector*^[2]'. Therefore, taking in view what is laid down in the above decisions, this application is allowed and the delay in filing the appeal is condoned.

7. LAAS (SR) No.11793 of 2015: This regular appeal is filed by the land owner under Section 54 of the Act, challenging the award passed by the Senior Civil Judge, Nandikotkur in OP No.101 of 1995.

8. In view of the fact that this court has disposed of the other appeals arising out of the very same notification and similar awards passed by the referring court, we direct the learned Government Pleader to take notice so that the appeal could be disposed of even at this stage.

9. By a notification dated 10.03.1994 issued under Section 4(1) of the Act, the land owned by the petitioner was acquired for the formation of bund of Alaganur Balancing Reservoir. The Land Acquisition Officer passed an award on 31.03.1994 in Award No.25/93-94, fixing the market value at Rs.31,000/- per acre. The appellant sought a reference under Section 18 of the Act and the same taken on file in OP No.101 of 1995, was dismissed by the court below by order dated 16.06.2004. The other land owners, whose lands were also covered by the very same notification, who also got the award only for a sum of Rs.31,000/- per acre and whose reference under Section 18 of the Act also met with the same fate, came up with appeals. In the first batch of appeals in LAAS Nos.33 and 34 of 2005, a Division Bench of this Court passed a common judgment on 30.12.2008, enhancing the market value from Rs.31,000/- per acre to Rs.60,000/- per acre.

10. There is no dispute about the fact that the judgment dated 30.12.2008 in LAAS Nos.33 and 34 of 2005 relate to the lands covered by the same notification. There is also no dispute about the fact that subsequent batch of appeals in LAAS Nos.1854, 1858, 1965, 1966,

1967, 2007 of 2005 and the other batch of appeals of the years 2008, 2009 and 2010 also came to be allowed. The last of the judgments of this court is dated 26.09.2014, in which the enhancement of market value from Rs.31,000/- per acre to Rs.60,000/- per acre has been ordered.

11. Therefore, the petitioner is also entitled to the very same enhancement, as the land is identical in nature and the land was covered by the very same notification. Hence, the present appeal also deserves to be allowed.

12. Accordingly, the appeal is allowed and the compensation as awarded by the Land Acquisition Officer in Award No.25/93-94 dated 31.03.1994, as confirmed by the Senior Civil Judge, Nandikotkur in OP No.101 of 1995, is enhanced to Rs.60,000/- per acre together with all other benefits. However, the petitioner/land owner will not be entitled to interest on the enhanced compensation for the period of delay, namely, 4017 days. There shall be no order as to costs. Pending miscellaneous applications, if any, in this appeal, shall stand closed.

V.RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

Date: 07.06.2016
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(per Hon'ble Sri Justice V.Ramasubramanian)

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[2] (2014)14 SCC 133