

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE SMT JUSTICE ANIS

L.A.A.S.Nos.110 & 359 of 2015

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

Both these appeals, one filed by the Land Acquisition Officer and the other filed by the landowner, are directed against the judgment and decree of the reference Court under Section 18 of the Land Acquisition Act, 1894.

2. Heard learned Government Pleader for Telangana and Mr. V. Hari Haran, learned counsel for the landowner.

3. The notification under Section 4(1) was issued on 08.11.2007. The object of acquisition was for widening of the road. The land acquired was an extent of 403.72 sq. yards together with a commercial complex built up in an extent of 6676 sq. feet.

4. The Land Acquisition Officer passed an award on 27.02.2008 fixing the compensation at Rs.15,000/- per sq. yard. The reference Court enhanced it to Rs.45,000/- per sq. yard. Aggrieved by the enhancement, the Land Acquisition Officer has come up with one appeal. Not satisfied with the enhancement, the landowner has come up with the other appeal.

5. The main contest revolves around the sale deed under Ex.A.3, dated 26.04.2007, which was executed and registered at least seven months preceding the date of notification under Section 4(1). Ex.A.3 related to the sale of a land of an extent of 9

sq. yards together with a shop with a built up area of 400 sq. feet. The total sale consideration under Ex.A.3 was Rs.10 lakh. The reference Court accepted Ex.A.3, but arrived at Rs.45,000/- after deducting 50% towards development charges. In other words, the reference Court was convinced that the market value of the land indicated in Ex.A.3 was Rs.90,000/- per sq. yard and that the land covered by Ex.A.3 was comparable to the acquired land.

6. As a matter of fact, the deduction of 50% towards development charges, in an area of this nature, cannot be approved. The location of the land is near Masabtank. It appears that the land is situated at the crossroads junction, which provides probably the gateway to Banjara Hills. The distance covered, as per the learned Government Pleader, between Banjara Hills and the property acquired is about 2 kms., but still the fact remains that the land acquired is within the limits of metropolitan area of Hyderabad. In other words, the land is located in an area which is already developed, and the same does not require any further development for the reference Court to take 50% towards development charges. At the most 1/3rd could have been deducted towards development charges. If this is done, the market value of Rs.90,000/- per sq. yard arrived at by the reference Court would come down only to Rs.60,000/- per sq. yard and not Rs.45,000/- per sq. yard.

7. Therefore, LAAS No.359 of 2015 filed by the landowner deserves to be allowed and the order of the reference Court is

modified to the effect that the market value of the land acquired is fixed at Rs.60,000/- per sq. yard.

8. But at the same time the appeal filed by the State also deserves to be allowed to a limited extent, since the reference Court has granted interest at 12% from the date of the award. The Act stipulates the rate of interest payable under Section 28 at a particular rate from the date on which the Collector took possession up to the date of payment, whenever the amount awarded by the Collector is found to be less. The proviso to Section 28 prescribes a higher rate of interest, if the amount awarded by the court is deposited after one year, from the date on which the possession is taken. Therefore, the Tribunal was wrong in prescribing interest at 12% without reference to Section 28. Hence the appeal of the Government is also allowed to a limited extent modifying only the portion relating to payment of interest. The landowner will be entitled to interest at the rate stipulated in the main part as well as the proviso to Section 28, as per the contingency. There will be no order as to costs.

9. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

V. RAMASUBRAMANIAN, J

ANIS, J

18th November, 2016
Js.

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