

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SMT JUSTICE T. RAJANI

LAAS.No.732 of 2010

DATED: .06.2017

Between

S.S.N.K. Sai and others.

...APPELLANTS

And

Special Deputy Collector, L.A. VUDA, Visakhapatnam and others.

...RESPONDENTS

COUNSEL FOR THE APPELLANTS: MR. M. SURYA PRAKASH

COUNSEL FOR THE RESPONDENTS: GP FOR LAND ACQUISITION



THE COURT MADE THE FOLLOWING:

JUDGMENT: (*per the Hon'ble Smt Justice T. Rajani*)

This appeal is preferred by the appellants, being dissatisfied with the quantum of compensation filed by the Principal District Judge, Visakhapatnam in LAOP.No.15 of 2003 dated 09.03.2010.

2. The facts of the case, in brief, are, the Special Deputy Collector, Land Acquisition, Visakhapatnam Urban Development Authority, Visakhapatnam, on the request of the claimants, referred the matter to the court, under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'). The lands, which are to the extent of Ac.4.00 cents in Sy.No.40-1 in Peddawaltair, Visakhapatnam were acquired for Muvvalavanipalem, I.U.D. Scheme. The LAO awarded compensation at the rate of Rs.10.23/- per square yard, which was enhanced to Rs.17.25/- per sq yd, in the reference made to the court. The appellants, not contented with the said price fixed for the lands, come in appeal on the ground that the reference Court did not take into consideration the rates of the lands under Exs.A7 to A11, which are sale deeds, pertaining to contemporaneous sales. It is also averred that the acquired land is located in Peddawaltair, which is a prime locality, with good potential and hence, the rate of the land at Rs.17.25/- per sq. yard awarded by the appellate court is also low. They contend that, at present, the land acquired in survey number 40/1 of Peddawaltair has become a posh locality. The appellants plead that Rs.200/- per sq yard, would be the adequate rate for the land under acquisition.

3. At the hearing, learned counsel for the appellants, while contending that the price fixed by the LAO is far below the then existing prices of the neighbouring land, relied on Exs.A7 and A8 more importantly, out of Exs.A7 to A11, in order to persuade this Court to fix the price of the land as reflected in those documents.

4. We have heard the learned counsel for the appellants and the learned Government Pleader for Land Acquisition (AP) and perused the record.

5. The appellants, represented by their father and GPA holder, are the grand children of one Sri Sripathi Ramamurthy, the original owner of the land. They inherited the property through a will executed by Sri Sripathi Ramamurthy. The GPA holder, Sripathi Sitapathi Rao, was examined as P.W.1. According to his evidence, Sri Sripathi Ramamurthy was declared as the sole owner of the acquired land, in a dispute of title, decided in OP.No.4 of 1988. He states that the reference was made, at the instance, of Sri Sripathi Ramamurthy and later on his demise; the appellants were brought on record as his legal representatives. On the aspect of compensation P.W.1 reiterates the averments that are made in the claim statement.

6. The claimants got examined P.W.2, a chartered engineer in support of the evidence of P.W.1. The Court below did not rely on the evidence of P.W.2, by considering the fact that he visited the land on 09.03.2008 and stated that the land would cost Rs.117.88 ps, whereas the acquisition was in the year 1977. Apart from the reason assigned by the Court below, it can also be said that a chartered

engineer is not a witness competent to speak about the price of lands and his evidence cannot be taken as a basis to fix the price of the land.

7. The Court below, while fixing the compensation, took into consideration the compensation awarded in cases covered by the same award. Due to the dispute under Section 30 of the Act, the reference with respect to these claimants came before the lower court in the year 2003. The appellants contend that in spite of their constant persuasion, their matter was not referred under section 18 of the Act, along with the reference made under Section 30 of the Act. The aspect that distinguishes the appellants/claimants from the other claimants under the award, according to the appellants, is that enhancement was not made in respect of their lands, at the time of enhancing the compensation for the other claimants under the same award. The contention of the appellants is that, had they received the compensation along with the other claimants, their money would have swelled into bigger amounts. The said contention need to be borne in mind while deciding the compensation.

8. The appellants obtained information from VUDA with regard to the lands in Visakapatnam, marked as Ex.6. The rates range from Rs.76/- to Rs.183/- per sq yard. However, the locality is not clearly specified in the said information. It says MVP and IUDP, which can be understood as muvvalavanipalem IUD, which is the same locality in which these lands are located. Keeping in view the fact that the land under acquisition is also located in a prime locality and also the rates given by VUDA, we proceed to decide the compensation in this case.

9. As already stated, the appellants base their claim on Exs.A7 and A8. Ex.A8 which is of the year 1977, shows that the rate per square yard was Rs.65/- and under Ex.A7, which pertains to the sale in the year 1969, it is Rs.31.95/- per square yard. The rate of square yard under other exhibits is also around Rs.30/-. Hence it is evident that the price of the land fixed by the LAO and the tribunal are not on par with price of the neighboring lands. Ex.A8 can be taken as the basis to fix the price of the land in this case. However, the land acquired under Ex.A8 is a small extent of land, which does not require any further development, but the land under acquisition, in this case, is a vast extent of Ac.4.00 cents. Hence, some deduction needs to be made towards the developmental charges, which, in our considered opinion can be $\frac{1}{3}^{\text{rd}}$ of the price of the land. As already observed the rate per square yard under Ex.A8 is Rs.65/-. If $\frac{1}{3}^{\text{rd}}$ is deducted from the said price, the price would come to Rs.44/- per square yard. Ex.A6 is issued in the year 2007 and hence, those rates cannot be taken as they are, to award compensation in this case. But certainly it would be of good guidance as a hike index of the lands in that locality. Considering the rates of land under Exs.A7 to A11 and the delay caused in referring this matter to the court and also the rates under Ex.A6, but keeping in mind that the other claimants under the same award were granted compensation at Rs.17.25/- per sq. yard, we are inclined to take Rs.50/- per square yard as market value in this case and award the same as compensation to the appellants.

10. The grievance of the appellants that they were put to huge loss by not being paid just compensation contemporaneous with their

dispossession of the land, would be taken care of by Section 34 of the Act, which provides for payment of interest at the rate of 15% per annum, which is far above the bank rates of interest at any given point of time, till today.

In the result, the appeal is allowed in part and the appellants shall be paid compensation for the land acquired from them at the rate of Rs.50/- per square yard and would be entitled to all statutory benefits including the benefits under Section 23(1-A) and Section 34 of the Act.

C.V. NAGARJUNA REDDY, J

T. RAJANI, J

June , 2017
DSK

