

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

Appeal Suit No.1736 of 2002

JUDGMENT : (ORAL)

(per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal the appellant – Land Acquisition Officer has challenged the judgment and decree dated 5.1.2002 passed in O.P.No.13 of 1999 by the Senior Civil Judge at Narayanpet.

2. The present appeal is filed on the ground that impugned order of the Court below enhancing the market value from Rs.2,058/-, Rs.1,855/- and Rs.1,955/- per acre to Rs.7,100/- per acre is contrary to law, weight of evidence and probabilities of the case. The Court below ought not to have enhanced the market value as the claimants failed to mark any documentary evidence.

3. The Decree and Judgment mentioned above was passed on the reference made under Section 18 of the Land Acquisition Act for fixation of compensation in respect of Sy.Nos.605, 602/1 and 602/2 (wet) to an extent of Acs.1.15 guntas, Ac.0.28 guntas, Ac.0.27 guntas respectively situated at Savanpally H/o Manthankod village of Makthal Mandal, Mahaboobnagar District.

4. In the said reference the claimants claimed that the sale transactions relied on by the Land Acquisition Officer in the Award

cannot be taken for ascertainment of market value. The Land Acquisition Officer could have adopted valuation mentioned in sale deeds dated 11.4.1983 and 20.1.1984 to fix the value of the land. It is submitted that the market value of the lands in Jaklair is not less than Rs.40/- per yard. It is further submitted that the acquired land is abutting to the village and the same was acquired for house sites and the Land Acquisition Officer ought to have taken into consideration the potentiality of the land instead of *bagana* and claimants claimed that the compensation has to be awarded at the rate of Rs.60/- per square yard.

5. The case of the appellant before the reference court was that the Award was passed after considering registered sales transaction for a period of three years preceding the date of notification i.e., 31.5.1985. The land in Sy.Nos.605, 602/1 and 602/2 are wet lands and they were never irrigated and only dry crops were raised. It is submitted that Savanpalli is interior from P.W.D. road and at the time of acquisition, there was no demand being agricultural land till date of its acquisition. Moreover, only dry crops were raised in the land in question. It is more than 5 K.Ms. away from P.W.D. road and 3 K.Ms. away from the main village Manthan Goud and there was no demand to the said land. The sale transactions cited by the claimants pertain to sale of actual wet lands, therefore, were not taken into consideration, as acquired land is dry land. It is further submitted that sale of the lands in Jaklair have no relevance to the land acquired at

Savanpalli. The claimants in the Award proceedings claimed Rs.40,000/- per acre and now they are claiming Rs.60/- per square yard which is exorbitant.

6. We have heard the learned counsel for parties and perused the record.

7. The respondents – claimants, to prove their claim, examined P.W.1 – Sri B.Venkat Reddy and P.W.2 – Sri Venkat Ramulu and the Land Acquisition Officer examined R.W.1 – Sri Khaja Qutubuddin and got marked Ex.B1 - Award dated 14.6.1987, Ex.B2 is the sale deed dated 26.9.1984 and Ex.B3 is the Basic Value Certificate issued by Sub-Registrar.

8. After considering the rival contentions of the parties, the learned Court below framed points for consideration as under :

“Whether the claimants are entitled to compensation @ Rs.60/- per square yard and whether the compensation awarded by the Land Acquisition Officer is just and reasonable?”

9. P.W.1 claimed that Savanpalli is 2 K.Ms. away from Jaklair and the land in Sy.Nos.605, 602/1 and 602/2 are wet lands. The acquired lands and lands in Jaklair are similar lands and 30 bags of paddy for each crop over the acquired land was being produced and after deducting expenses, they used to get Rs.5,000/- or Rs.6,000/-. These are costly lands and sale deed filed in O.P.No.12/1999 be considered in this case also.

10. P.W.2 stated that the land value in Savanpally was around Rs.40/- to Rs.45/- per square yard. R.W.1 deposed that the Award dated 14.6.1987 was passed fixing the market value @ Rs.2,058/- per acre for land in Sy.No.605, @ Rs.1,885/- per acre for land in Sy.No.602/1 and @ Rs.1,955/- for land in Sy.No.602/2. The Land Acquisition Officer adopted market value on the basis of Ex.B2 registered sale deed, dated 26.9.1984 and Ex.B3 is the certificate issued by the Sub-Registrar. Though the acquired lands are wet lands, the claimants were making dry cultivation and are tailend lands having no proper irrigation channel.

11. It is observed by the learned Court below that the claimants have not filed any documents to support their version that acquired lands market value is Rs.40/- per square yard or Rs.60/- per square yard. Though the claimants wanted to rely on the sale deed filed in O.P.No.12 of 1999, the said O.P. was not clubbed with this claim petition. Further observed, if the claimants wanted to establish their case, they could have filed certified copy of the said sale deed. The respondents-claimants claimed that they were getting Rs.5,000/- or Rs.6,000/- per acre.

12. Ex.B1 – Award shows that the Land Acquisition Officer adopted capitalisation method after discarding all the sales and arrived at the compensation as mentioned in Ex.B.1. The learned trial Court observed that the Land Acquisition Officer purposefully gave very low compensation for obvious reasons. Ex.B1 is the Award dated

14.6.1987 bearing No.C/925/85. The M.R.O.-cum-L.A.O. filed reference under S.No.1782/88 and it contained an award, which is in respect of the same land, however, the Land Acquisition Officer fixed compensation @ Rs.5,720/- per acre relying upon the sale deed dated 27.9.1984 bearing No.2117.

13. We note the learned Court has observed in its impugned order that it is not known as to why two awards were prepared by the Land Acquisition Officer fixing different kinds of market value in respect of the same land. As per the evidence of R.W.1, the Land Acquisition Officer relied upon Ex.B2 - sale deed dated 26.9.1984 and the said sale deed bears No.2117 of 1984. As per the said sale deed, the market value of wet lands in Sy.Nos.825, 826, 912 and 912/piki is R.6,400/-, Rs.6,800/-, Rs.7,100/- and Rs.7,100/- respectively. The version of R.W.1 shows that the Award which was referred earlier fixes higher market value than the Award which is marked as Ex.B1. Accordingly, the learned Court below fixed the value of acquired land @ Rs.7,100/- per acre.

14. It is pertinent to mention here that before the reference court or before this Court the Appellant – Land Acquisition Officer has not filed any of the sale deeds of adjoining land wherein the sale of the land is far less than the amount of Rs.7,100/- per acre.

15. In view of the above discussion, we find no illegality or perversity in the impugned order.

16. Accordingly, we find no merit in the instant appeal and the same is accordingly dismissed. No order as to costs.

17. Miscellaneous Petitions pending, if any, in the appeal shall stand closed.

JUSTICE SURESH KUMAR KAIT

JUSTICE N.BALAYOGI

03rd August, 2017

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