

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU**

**AS Nos.583 of 2003, 1529 of 2003 & 1602 of 2003,
AS No.625 of 2003 & Cross Objections (SR) No.82701 of 2003 in
AS No.625 of 2003,
**LA AS Nos.692 of 2007, 691 of 2007, 713 of 2007, 717 of 2007, 683
of 2007, 138 of 2007, 746 of 2007, 130 of 2008 & 733 of 2006
AS Nos.2176 of 2003, 1336 of 2003, 866 of 2003 & 461 of 2003.****

COMMON JUDGMENT (per Hon'ble Sri Justice D.V.S.S. Somayajulu):

This common judgment is passed in this batch of 17 land acquisition appeals. At the request of the Government Pleader for Appeals appearing for the Government and Sri P. Sridhar Reddy, learned counsel for the claimants, all these matters were heard together. Both the counsel consented to the suggestion that the records filed and evidence adduced in A.S.No.583 of 2003 would be considered and accordingly, with the consent of both the learned counsel, these appeals were taken up for final hearing.

2. Sri P. Sridhar Reddy, learned counsel for the claimants relied on the evidence on record in A.S.No.583 of 2003 and the same was accepted by the learned Government Pleader for appeals. The learned Government Pleader also relied on the same exhibits etc., for his reply arguments.

3. A.S.No.583 of 2003 is an appeal filed by the Government/Referring Officer. The acquisition in all these cases pertains to the land acquired by the State Government for the formation of National Highway Bypass Road, Bit-II

Village in Nellore. The total extent of land acquired in all these cases is Ac.73.62 cents.

4. The gazette notification was made on 20.07.1992, and the Award was passed by the Land Acquisition Officer in Award No.9/93-94, dated 28.02.1994. The Land Acquisition Officer fixed the compensation at the following rates.

Rs.85,000/- for house plots

Rs.65,000/- for agricultural lands and garden lands

Rs.50,000/- for waste lands

Aggrieved by the said fixation of compensation, the land owners filed Land Acquisition OPs before the designated Court seeking enhancement of compensation. After hearing the matter and considering the evidence let in, the reference Court enhanced the compensation from Rs.65,000/- to Rs.1,00,000/- for agricultural lands per acre and from Rs.85,000/- to Rs.1,00,000/- in some cases and Rs.1,30,000/- in some cases for the house sites. Aggrieved by the same, the present appeals are filed.

5. The learned counsel for the claimants/land owners contended that the value fixed by the reference Court was too low and that with the growth of the town, the agricultural lands have also got high value and consequently, the fixation of compensation for agricultural lands is meagre and that the same should be enhanced to at least Rs.9,00,000/- per acre.

6. The learned counsel for the claimants(land owners) referred to the exhibits marked in LA AS Nos.138 & 746 of 2007 and LA AS No.130 of 2008. In these cases, two exhibits viz., Exs.A.11 and A.12 were marked. These are the registered sale deeds pertaining to land belonging to a temple which were sold in a public auction. As per the submission of the learned counsel for the claimants, Ex.A.11 is a registered sale deed dated 01.12.1992 executed in favour of Polam Reddy Surendranath for an extent of Ac.3.06 cents in Survey No.862 under which the land was sold for a total sale consideration of Rs.28,00,000/-, which translates to about Rs.9,13,000/- per are. Similarly, Ex.A.12 was a registered sale deed dated 18.03.1992 executed in favour of Koduru Somasekar Reddy under which the land admeasuring Ac.3.00 cents in Survey No.862 was sold for a sum of Rs.29,25,000/- in a public auction, which translates to Rs.9,35,000/- per acre. Therefore, the learned counsel for the claimants argued at least a sum of Rs.9,00,000/- should be awarded per acre.

7. In addition, he also drew the attention of this Court to para-29 of the impugned judgment dated 18.11.2002 wherein the reference Court held as follows:

“Nellore Town is a vast developing town and there is a heavy demand for house sites. Admittedly, the acquired lands in question are situated within the municipal area of Nellore. Therefore, the acquired lands had more potentiality and market value for house sites to construct any residential buildings, hospitals, posh houses etc.”

8. The learned counsel for the claimants also pointed out that more than one place in the said judgment, the reference Court held that the lands are situated within the municipal area of Nellore and that they have high potential. He further pleaded that compensation as prayed for should be awarded.

9. In reply, the learned Government Pleader for appeals argued that the impugned order is a reasoned order, which has considered the facts and circumstances and came to a just conclusion. He urged that the fixation of the value is correct. The learned Government Pleader also drew the attention of this Court to a Division Bench judgment of this Court in AS No.1588 of 2001 and related appeals dated 16.07.2013. He also drew the attention of this Court to the fact that the respondent in AS No.583 of 2003 is a temple and that in the batch of cases, as referred to above, certain temples have also lost their land. The Division Bench judgment which he relied upon is within the Kondayapalem Village, which is also a part of Nellore Town. He also drew the attention of this Court to the fact that the 4 (1) notification for Kondayapalem was published on 15.07.1992, which is just five days before a notification dated 20.07.1992 published for Nellore Bit-II village, which is the subject matter of the appeals before this Court. He thus states that with a gap of 5 days, two notifications were published for acquisition of lands

in two villages viz., Kondayapalem Village and Nellore Bit-II Village, which are situated in close proximity to each other.

10. The learned Government Pleader, therefore, argued that the judgment dated 16.07.2013 in A.S.No.1588 of 2001 and batch should be considered by this Court, as the same is reasoned judgment, which is arrived at after considering all the facts and circumstances. As he stated that in similar circumstances, this Court awarded Rs.3,00,000/- per acre for the lands in question and that therefore, the same should be adopted as a guiding factor in the present set of appeals also. He also stated that the appeal against the orders in A.S.No.1588 of 2001 is pending before the Hon'ble Supreme Court of India and that the same were not set aside.

11. Having heard the arguments of both the parties and considered all the documents and legal submissions made, this Court is of the opinion that the sale in a public auction may not always reveal the correct price. Public auction is a proper method of arriving at the market value, but some times, it is clear that in the process of bidding and with a view to outbid the next highest bidder, the bidders often raise the price to more than the market value. The proceedings of the auction are also not a part of two court records, nor is any data available to show that the lands etc. are similar in all respects to adopt the auction price in those sales as the market value. In contra distinction to this

submission of adopting the auction as market value submission, there is a well reasoned judgment of the Division Bench of this Court only, which is referred to above, wherein for a village in the very close vicinity for the formation of the same road, this Court fixed the value of Rs.3,00,000/- per acre. The appeals were disposed off by a coordinate bench in a uniform manner holding that Rs.3,00,000/- per acre as a fair and reasonable compensation.

12. Having regard to the facts and circumstances of the batch of appeals, this Court is of the opinion that Rs.3,00,000/- per acre is fair and reasonable compensation for agricultural lands. For the house sites, the value fixed by the Land Acquisition Officer is Rs.85,000/- and it was enhanced by the reference Court to 1,00,000/- or Rs.1,30,000/- per acre. In view of the escalation of real estate values and the fact that the Town of Nellore is now a commercial centre, the value of Rs.1,00,000/- or Rs.1,30,000/- is too low. Therefore, this Court is of the opinion that Rs.3,00,000/- per acre is fair and reasonable compensation for house plots also.

13. Accordingly, all these appeals are disposed off enhancing the compensation from Rs.1,00,000/- to Rs.3,00,000/- per acre for acquired agricultural lands and from Rs.1,00,000/- or Rs.1,30,000/- to Rs.3,00,000/- per acre for acquired house plots. Needless to say that the

claimants are entitled to all the benefits like solatium, additional market value, interest etc. from the date of the notification.

14. In view of the enhancement of compensation now granted to the claimants, Cross Objections (SR) No.82701 of 2003 in AS No.625 of 2003 is allowed.

15. However, there shall be no order as to costs. Miscellaneous Petitions, if any, pending in these appeals shall stand closed.

SURESH KUMAR KAIT, J

D.V.S.S. SOMAYAJULU, J

Date: 10.11.2017
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