

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

L.A.A.S.No.417 of 2008

JUDGMENT : *(Per Hon'ble Sri Justice Suresh Kumar Kait)*

This appeal is filed by the appellants/claimants, challenging the order dated 4th August, 2004, passed by the reference Court i.e. Senior Civil Judge's Court, Gudur in L.A.O.P.No.42 of 1995. By the aforesaid order, the reference Court enhanced the compensation for the acquired land of claimants but dismissed the claim for enhancement of compensation for fruit-bearing trees i.e. Pomegranate and Cashew nut trees. Aggrieved of the same, the present appeal is filed by the claimants claiming enhancement of compensation for the fruit-bearing trees also.

2. Government issued notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'), for acquiring the lands of the claimants, along with fruit-bearing trees existing therein, for the purpose of offshore submersion of Kandaleru reservoir under Telugu Ganga Project. The Land Acquisition Officer, after due enquiry, passed Award fixing compensation for land and trees. Seeking enhancement of compensation awarded by the Land Acquisition Officer, the claimants sought reference under Section 18 of the Act. The Reference Court enhanced compensation for land but dismissed the claim for enhancement of compensation for fruit-bearing trees.

3. The learned counsel for the claimants and the learned Assistant Government Pleader for appeals would submit that the issue of

enhancement of compensation for fruit-bearing trees is squarely covered by the judgment of a Division Bench of this court delivered in A.S.No.1749 of 2004 and Cross Objections (SR) No.3962 of 2008 dated 01.03.2013, where-under the appeal filed by the Special Deputy Collector (Land Acquisition) was dismissed and the cross-objections filed by the claimants were allowed in part, holding that the claimants are entitled to compensation for fruit-bearing trees as under :

*“Mango, Acid Lime, Coconut, Guava,
Jack-fruit & Sapota (Sapodilla) : Rs.3000/- per tree*

Tamarind :Rs.6,000/-per tree

Soap-nut :Rs.5,000/- per tree

*Pomegranate, Drumstick &
Neredu (Black-Plum) :Rs.2,000/- per tree*

Dates & Palmyra trees :Rs.300/- per tree

Remaining trees :Rs.400/- per tree”

The learned counsel for the parties further submitted that the appeals filed by the Government in Special Leave to Appeals (C) Nos.23576-23577 of 2014, challenging the above judgment, were dismissed by Apex Court by judgment dated 29.08.2014.

4. The learned counsel for the Claimants further submitted that land acquisition notification before the above Division Bench in A.S.No.1749 of 2004 and Cross Objections (SR) 3962 of 2008, was of the year 1977, whereas the present acquisition relates to 1993, and hence, this court may consider for grant of some reasonable amount more than the amount awarded in the above judgment of the Division Bench.

5. The learned Assistant Government Pleader for appeals opposed the above claim of the learned counsel for the claimants and contended that the claimants are not entitled for more compensation for trees than the amounts awarded in the case mentioned in the above para.

6. The Apex Court in *Ashok Kumar v. State of Haryana*¹, held that the amount of compensation that a court can award is no longer restricted to the amount claimed by the applicant. It is the duty of the court to award just and fair compensation taking into consideration the true market value and other relevant factors, irrespective of the claim made by the owner. The relevant portion of the judgment reads as under:

“7. The pre-amended provision puts a cap on the maximum: the compensation by court should not be beyond the amount claimed. The amendment in 1984, on the contrary, puts a cap on the maximum: compensation cannot be less than what was awarded by the Land Acquisition Collector. The cap on maximum having been expressly omitted, and the cap that is put is only on minimum, it is clear that the amount of compensation that a court can award is no longer restricted to the amount claimed by the applicant. It is the duty of the court to award just and fair compensation taking into consideration the true market value and other relevant factors, irrespective of the claim made by the owner.

13. Therefore, these appeals are disposed of fixing the land value at Rs.200 per square yard and the appellants shall also be entitled to all the statutory benefits. The amount as above shall be paid and

¹ (2016) 4 SCC 544

deposited after adjusting the deficit court fee, if any, before the executing court within a period of three months from today.”

7. The Division Bench of this court in A.S.No.1749/2004 and Cross-Objections (SR).No.3962 of 2008 dated 01.03.2013 for the notification dated 29.12.1977, granted compensation for the different fruit-bearing trees, as noted above and the same was confirmed by the Apex court in the judgment dated 29.08.2014 in Special Leave to Appeals (C) Nos.23576-23577 of 2014. Therefore, following the above Division Bench judgment of this court dated 01.03.2013 and also following the judgment of Supreme Court in *Ashok Kumar's* case (supra), and for the reasons mentioned therein, and further, taking into consideration the facts and circumstances of the present appeal, we deem it appropriate to enhance the compensation for the fruit-bearing trees as awarded by the Division Bench of this Court in A.S.No.1749 of 2004 and Cross-Objections (SR) No.3962 of 2008, dated 01.03.2013.

8. Accordingly, for pomegranate trees, the claimants shall be entitled to compensation at the rate of Rs.2,500/- per tree. For Cashew nut trees, they shall be entitled to Rs.2,500/- per tree.

9. The claimants are entitled to compensation at the above rates with all statutory benefits on the enhanced amounts. They are directed to pay the deficit court fee on the enhanced amount before the executing court within a period of four weeks from the date of receipt of a copy of this judgment.

10. Accordingly, the appeal is disposed of. No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.

SURESH KUMAR KAIT, J

11th October, 2017

D.V.S.S.SOMAYAJULU, J

ajr

