

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

**L.A.A.S.Nos.407,408 & 509/2012,
285,286,289,389,403,431 & 433/2013
91,92,93,259,262,263 and 267/2014,**

COMMON JUDGMENT: (Oral)

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

In all the seventeen (17) appeals, the decree and order, dated 15.09.2011, passed by the Senior Civil Judge, Allagadda, has been challenged. Therefore, this Court has decided to dispose of all these appeals by this common judgment.

2. The present appeals are filed on the ground that learned Senior Civil Judge failed to observe that the Land Acquisition Officer has not taken into consideration the comparable sales of surrounding lands near the acquired lands in the period before issuance of notification under section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'); that the learned Judge should have enhanced the compensation from Rs.60,000/-, per acre, to Rs.3,00,000/-, per acre, as the lands are very close to the major Gram Panchayat; that the learned Judge has erred in not enhancing the compensation, as in the very Award No.3 of 2007 in L.A.OP.No.70 of 2008, the same Senior Civil Judge has enhanced the compensation upto Rs.1,14,000/-, per acre. It is urged that the learned Judge, however, failed to enhance the compensation, though the lands are situated besides the B.T Road and very nearer

to Koilakuntla, which is a major Gram Panchayat consisting 300 shops, 4 warehouses, 3 petrol pumps, and the lands are very nearer to Vikas Public School, Sub-Registrar Office and Junior Civil Judge Court Building. The learned Judge also failed to take into consideration the market value as mentioned in Exs.B.1 and B.2, dated 28.07.2006 and 23.08.2006, respectively, which are very much relevant at that particular point of time, as those two documents are much earlier to the notification issued under Section 4(1) of the Act.

3. The other grounds for filing the present appeals are that the learned Judge erred in not considering Ex.B.3, which is a judgment copy in LAOP.No.621 of 2000, and the Award copy in 22 of 1999 dated 31.01.2000, as those documents establish that the rate fixed by the Land Acquisition Officer per acre is very meager and had not taken into consideration the earlier sales. The learned Judge also failed to take into consideration Ex.B.1, as the said transaction took place on 28.07.2006 and the said land was purchased for a total consideration of Rs.5,37,000/- for an extent of Ac.1.79 cents, and therefore, the learned Judge should have enhanced the compensation upto Rs.3,00,000/-.

4. The learned Government Pleader appearing on behalf of the respondents submits that the Land Acquisition Officer and the referral Court considered 168 sale transactions in preceding three years from the date of notification i.e. from

16.11.2003 to 16.11.2006 from Sub-Registrar, Koilakuntla and all were discarded with reasons. The appellants/claimants failed to lead away any evidence, and therefore, the learned Judge had no option but to dismiss the petition filed by the appellants for enhancement.

5. We have heard learned counsel for the parties and perused the material on record.

6. It is not in dispute that the acquired lands are situated in Koilakuntla Village of Koilakuntla Mandal. In Award No.3 of 2007 dated 8.02.2007, an amount of Rs.60,000/-, per acre was awarded. According to the proceedings of Special Deputy Collector (LA), NGB Railways Nandyal, the Deputy Chief Engineer (Construction) South Central Railway sent a requisition in his letter dated 20.09.2006 for the purpose of acquisition of land in Koyalakuntla Village and Koyalakuntla Mandal for an extent of Acs.37.52 cents as the lands were required urgently. Accordingly, the urgency clause under Section 17 (4) of the Act was invoked by dispensing with the enquiry under Section 5(1) of the Act. The draft proposals were approved by the Special Collector vide proceedings dated 01.11.2006 and published in AP Gazette Part-1 dated 10.11.2006. The Land Acquisition Officer collected sale statistics for three years preceding to the date of notification from the Sub-registrar, Koyalakuntla, but all were discarded fixing the market value of Rs.60,000/- per acre. While

discarding the aforesaid sale transactions, the learned referral

Court observed in its impugned order as under:

22. As seen from Ex.B1 C.C of registered sale deed dt. 28.07.2006 for Rs. 5,37,000/- for the land and extent Ac.1.79 cents in Sy.No.192/1 purchased by one sister Innanamma from Venkata Subba Reddy and two others. The claimants are not even examined parties to the documents to show the transaction. This document did not contain the categorization of land whether it is dry or wet. It is most significant to note that the transaction covered in this document is just three months eighteen days prior to the date of notification dt. 16.11.06. Therefore the court is not inclined to attach any credence to this document.

23. Coming to the Ex.B2 C.C. of registered sale deed dt. 23.08.2006 for Rs.3,52,000/- in the name of Eswara Reddy executed by S.A.Jaffar and others of the land an extent of Ac. 0.42 cents and Ac.0.86 cents in Sy.No.432/1 and 432/2 respectively of the land situated in Koilakuntla Village. The claimants had examined RW.2 one of the attestors of Ex.B2 about the sale transaction under Ex.B2. It is pertinent note there is no categorization land in the Ex.B2 whether it is dry or wet. It is also quire significant note the date of notification in the present award is 6.11.2006 and the sale transaction under original of Ex.B2 is dt. 23.08.2006 is just two months twenty three days prior to date of notification dt. 23.08.06 is just two months twenty three days prior to date of notification. Therefore the court is not inclined attach any credence to this document.

24. Further the documents rely upon by the claimants are Ex.B3 and B4.

25. As seen from exhibit before the award of 22/99 which was passed to the lands acquired in Chinthakuntla Village for the purpose of excavation of major 141, 15R, 1R, sub-minor of 15R and 16R minor canals, wherein Rs.36,000/- fixed by the LAO. Dissatisfied with the market value fixed by the LAO a reference made to this court in OP 621/2000 and batch, dt. 30.07.2004 enhanced the market value from Rs.36,000/- to Rs.64,000/- per acre to the lands situated in Chinthakuntla Village acquired under Ex.B4 in Award No.22/99. Therefore in earlier award 22/99 the LAO has fixed Rs.36,000/- per acre which as enhanced to Rs.64,000/- by this court in order dt.31.07.2004. Though the lands covered under original of Ex.B4 award are situated in Chinthakuntla village, Koilkuntla Mandal and the present lands are situated in Koilkuntla Mandal, basing on enhancement of the market value by my predecessor cannot be taken into consideration unless it is confirmed by Hon'ble High Court as held

by Apex Court in “Bheem Singh and others vs State of Haryana and others (2003) 10 Supreme Court cases 529 in case of a market value fixed by the courts earlier in respect of the acquisition of land for the same purpose and such market values fixed by the courts were confirmed by the High Court and Supreme Court in the later appeals preferred to those courts, the best method would be to look at the earlier judgment and awards in respect of the earlier acquisitions for the same purpose is justified.”

26. The claimants did not place any record to show whether the Government has preferred an appeal against the orders passed in OP 621/2000 and batch and dismissed by the Hon’ble High Court. Therefore in absence of any documents more particularly Hon’ble High Court. Therefore, in absence of any document, more particularly Hon’ble Court orders, the Court is not inclined to rely upon Ex.B3 order.

7. It is pertinent to mention that during pendency of the present appeals, the appellants filed LAASMP.No.1622 of 2012 in LAAS.No.509 of 2012, on behalf of all the claimants, seeking leave to receive the certified copy of the decree and order in LAOP.No.70 of 2008 dated 30.09.2011 as evidence. The same was taken on record with the understanding that the said document shall be considered at the time of disposal of the appeals.

8. We find it relevant that LAOP.No.70 of 2008 and batch form part of the same Award No.3 of 2007 as was passed in the present appeals. The order passed in the LAOP No.72 of 2008 was on 15.09.2011, whereas the order passed in LAOP.No.70 of 2008 and batch was vide order dated 30.09.2011.

9. Vide the aforesaid LAOP No.70 of 2008, the same learned Judge enhanced compensation from Rs.65,000/-

per acre to Rs.1,14,000/-, whereas the petition filed by the petitioners/claimants for enhancement was dismissed.

10. We note that in LAOP.No.70 of 2008 dated 30.09. 2011, the learned Judge observed and under :

15. *The claimant in op 72/2008 examined as PW.1 has reiterated about the potentiality of the lands and income derived from the lands which was not appreciated by the LAO and enhancement of the market value Rs.65,000/- per acre for dry land by the reference court in Award No.13/99 in OP 437/2000 and batch in order dt: 18.04.2003 and the land covered in Award No.13/99 and the land covered in present Award 3/07 was passed at the same time in the same village and lands were also same infertility and potentiality mainly relied upon Ex.A1, Ex.A2 and Ex.X1 and Ex.X2 marked through PW 2.*

16. *As seen from Ex.X2 c.c Award 13/99, dt: 25.11.99 was password for the purpose of excavation of 14 L Minor of SRBC Block No. X in which the lands situated in Koilkuntla Village was acquired by fixing Rs.36,000/- per acre by the LAO. Dissatisfied with the market value and reference made to this Court OP 437/2000 and batch.*

17. *As seen from Ex.A1 c.c. of Orders in OP 437/2000 and batch, dt:8.4.2003 passed by my predecessor for lands acquired for the purpose of SRBC of the lands situated in Koilkuntla Village where in the LAO has fixed Rs. 36,000/-per acre in Award No.13/99 and the court has enhanced from Rs. 36,000/- to Rs.65,000/- per acre. One of the claimant's benefited under original of Ex.A1 order examined as PW.2 the claimant in OP 411/2000 has filed his chief affidavit that his land and other lands acquired in Award No. 13/99 and court has enhanced for Rs. 65,000/- per acre. The points extracted from his Cross examination by AGP that he came to the court to give evidence at the request of the claimant's and he did not know the Survey Nos. and extent of the claimant's have no relevancy since he has benefited in Order passed in OP 437/2000 and batch evident under Ex.A1.*

18. *As seen from Ex.A2 F.S memo of the claimant in OP 432/2000 recorded in Lok Adalat, Kurnool who is one of the claimant's benefited in order 437/2000 and batch evident under Ex.A1.*

19. *Therefore from Ex.A1 it is quite evident the Government had acquired land situated in Koilkuntla village in Award No. 13/99 by fixing the market value Rs. 36,000/- per acre and it was enhanced by the court to Rs. 65,000/- per acre and one of the claimants had filed the F.S. Memo evident*

under Ex.A2 shows the Government had accepted the enhancement of the market value by this court in order, Dt : 18.4.2003 in OP 437/2000 and batch. It is significant to note the land acquired in the present Award is also situated in Koilakuntla Village and the categorization of the land is one and the same.

20. As seen from Ex.X1 c.c. of Map showing Koilakuntla Town formation of SRBC and Railway line. This document is not disputed by other side as it was the plain showing the existing physical features of the Koilakuntla town and also formation of Railway line and Railway Station and SRBC Canals.

21. Therefore on considering the documentary evidence place by the claimant's there was a earlier acquisition in the same village for the formation of SRBC Canals in Koilakuntla Village and the present land was acquired for the purpose of N.G.B. Though the purpose of acquisition is different when the government has accepted for Rs. 65,000/- per acre evident under Ex.A2 and the lands acquired in the present Award defiantly fetches more value and the court could safely rely upon Ex.A1 for enhancement of the market value of the acquired lands.

22. The date of notification under Ex.A1 Award No. 13/99, dt : 12.3.99 and the date of notification in the present Award No. 3/07, dt : 16.11.06 and the time lag period seven years eight months four days. When was calculate.....Rs.65,000/- arrived at Rs.49,905/- by adding this amount to Rs. 65,000/- is arrived at Rs. 1,14,000/-

Therefore, in forgoing reasons and discussion on considering the documentary evidence put forth by the claimant's the market value fixed by the LAO is improper and inadequate and the court is inclined enhanced the market value at Rs.1,14,000/- with all statutory benefits.

11. It is not in dispute that the land is acquired from the village Koilakuntla in Koilakuntla Mandal vide the same notification as the land acquired in LAOP.No.70 of 2008. The Land Acquisition Officer and the referral Court failed to consider the fact that the land acquired by the same notification was awarded compensation of Rs.60,000/- per acre whereas the land acquired in LAOP.No.70 of 2008 of the same village and the same Mandal, the compensation was

enhanced from Rs.60,000/-, per acre, to Rs.1,14,000/-, per acre.

12. It is also not in dispute that the award passed and the amount enhanced in LAOP.No.70 of 2008 has attained finality. Therefore, we see no ground not to enhance the compensation in the present appeals on the ground that enhancement was granted for the subject land is in the same Mandal acquired under the same notification and for the very same purpose.

13. Hence, for the aforesaid reasons and as these appeals are covered by the order dated 30.09.2011 passed in LAOP.No.70 of 2008 and batch in Award No.3 of 2007, as mentioned above, we are inclined to enhance the market value upto Rs.1,14,000/- per acre with all statutory benefits.

14. Accordingly the appeals are allowed. No order as to costs.

15. Miscellaneous Petitions if any pending in this appeal shall stand closed.

SURESH KUMAR KAIT, J

D.V.S.S. SOMAYAJULU, J

Date: 24.10.2017
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