

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI

A.S.NO.4008 OF 2003 AND CROSS OBJECTIONS (SR).NO.46558 OF 2004 IN
A.S.NO.4008 OF 2003.

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

The Special Deputy Collector, Telugu Ganga Project by issuing notification under Section 4(1) of the Land Acquisition Act, 1894 dated 27.09.1985, acquired the lands in question and the fruit bearing trees existing thereon in Nernuru village of Nellore District for fore-shore of Kandaleru Reservoir, and after due enquiry passed award No.66 of 1987 dated 31.07.1987, fixing the compensation of Rs.30/- for each lemon tree per annum, for a period of 14 years and awarded an amount of Rs.420/- for each lemon tree. For coconut trees, the Land Acquisition officer, fixed the compensation at Rs.85/- per annum for sixteen years and awarded a sum of Rs.1,360/- for each coconut tree. Dissatisfied with the compensation awarded by the Land Acquisition Officer in respect of trees, the claimants sought reference under Section 18 of the Land Acquisition Act, 1894. The Reference Court in L.A.O.P.No.408 of 1988, along with other references, passed common award dated 16.10.1997 and enhanced the compensation of lemon tree from Rs.30/- to Rs.90/- per annum for a period of ten years and awarded an amount of Rs.900/- per each lemon tree. In respect of coconut trees, the amount awarded by the LAO was confirmed. The enhanced amount for lemon trees was directed to be paid to the claimants with all statutory benefits.

2. Challenging the award passed by the reference court, the State, represented by the Special Deputy Collector (Land Acquisition), Telugu Ganga Project, Nellore, filed the present appeal.

3. Not being satisfied with the compensation awarded by the reference court, the claimants Nos.1, 3, 8 to 10, filed cross-objections, seeking enhancement of the compensation in respect of lemon trees at the rate of Rs.150/- per tree per annum for a period of fourteen years. Though enhancement is sought in respect of coconut trees, the counsel for the claimants confined his argument to lemon trees only.

4. The learned Assistant Government Pleader for Appeals appearing for the appellant and the learned Counsel for the respondent / cross objectors submit that the issue raised in this appeal is squarely covered by the judgment of the Division Bench of this court in A.S.No.1749 of 2004 and Cross Objections (SR).No.3962 of 2008 decided on 1.3.2013, 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 therein are entitled to compensation at the rate of Rs.3,000/- per each lemon tree with all statutory benefits on the enhanced amount. It is also brought to the notice of this court that against the said judgment of the Division Bench of this court, Special Leave petitions were filed by the Special Deputy Collector, Rajampet and the same were dismissed by the Supreme Court by order dated 29.08.2014.

5. The learned counsel for the respondents / cross-objectors, submits that in the cross-objections, the claimants claimed enhancement of compensation for each lemon tree at the rate of Rs.150/- per annum for a period of fourteen years, but as per the judgment of the above Division Bench of this court, relied on by the

claimants, they are entitled to Rs.3,000/- per each lemon tree. Relying on the judgment the Apex Court in **ASHOK KUMAR vs. STATE OF HARYANA**¹, he submits that the amount of compensation that a court can award is no longer restricted to the amount claimed by the applicant and that 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 is 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 deposited after adjusting the deficit court fee, if any, before the executing court within a period of three months from today.

6. Following the Division Bench Judgment of this court in AS.No.1749 of 2004 and Cross Objections (SR).No.3962 of 2008 dated 1.3.2013, and for the reasons mentioned therein, we modify the impugned order of the Reference Court holding that the claimants / cross objectors are entitled to compensation at the rate of Rs.3,000/- (Rupees three thousand only) per each lemon tree with all statutory benefits on the enhanced amount.

¹ (2016) 4 SCC 544

7. The claimants/cross-objectors 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 order.

8. With the above modification, the appeal filed by the State is dismissed and the cross-objections filed by the claimants are allowed. No order as to costs.

9. Miscellaneous petitions pending if any, shall stand closed.

SURESH KUMAR KAIT,J

N.BALAYOGI,J

DATE:06—09—2017
AVS

