

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

**L.A.A.S.NO.238 OF 2006**

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

Government issued notification under Section 4(1) of the Land Acquisition Act, 1894, (for short 'the Act') dated 11.03.1994, for acquiring the lands of the appellants/claimants in question, along with fruit bearing trees existing thereon, for the purpose of offshore submersion of Kandaleru reservoir under Telugu Ganga Project and the possession was taken on 25.09.1996. After due enquiry, the Land Acquisition Officer passed award dated 25.09.1996 in Award No.6/96-97. Seeking enhancement of the compensation awarded by the Land Acquisition Officer, the claimants sought reference under Section 18 of the Act. The reference court i.e., the court of Senior Civil Judge, Gudur, Nellore District, in L.A.O.P.No.72/2000 dated 17.10.2005, enhanced the amount for the lands under category Nos.I and II from Rs.9,500/- to Rs.12,000/-. In respect of fruit bearing trees, the reference court fixed the amount for mango trees at Rs.130/- per tree for a period of 10 years for 107 trees; Rs.80/- for each lemon tree for a period of seven years, for 160 trees and Rs.30/- for each pomegranate tree for a period of five years for 300 trees. Not being satisfied with the amount awarded by the reference court in respect of fruit bearing trees viz., mango, lemon and pomegranate, the claimants filed the present appeal seeking enhancement of compensation.

The learned counsel for the appellants/claimants and the learned Assistant Government Pleader for appeals would submit that in respect of

mango and lemon trees, the issue is squarely covered by a Division Bench judgment of this court in A.S.No.1749 of 2004 and Cross Objections (SR).No.3962 of 2008 dated 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/- for each of the mango and lemon trees in lump-sum, with all statutory benefits on the enhanced amount. The learned counsel further submit that the appeal filed by the Government in Special Leave to Appeals ( c ) Nos.23576-23577 of 2014, against the Division Bench judgment of this court dated 1.3.2013, was dismissed by Apex Court by order dated 29.08.2014. In respect of pomegranate trees, the learned counsel submits that this court in similar facts and circumstances and considering the acquisition in the year 1990, for offshore submersion of Kandaleru reservoir under Telugu Ganga Project, in L.A.A.S.Nos.991 and 1016 of 2007 dated 07.09.2017, awarded an amount of Rs.2,500/-, in lump-sum for each pomegranate tree. The learned counsel submits that the present appeal may also be disposed of in terms of the above judgments of the Division Bench.

In view of the above submission of both the counsel, following the Division Bench judgments of this court in A.S.No.1749 of 2004 and Cross Objections (SR).No.3962 of 2008 dated 1.3.2013 and L.A.A.S.Nos.991 and 1016 of 2007 dated 07.09.2017, and for the reasons mentioned therein, we modify the impugned order of the reference court holding that the claimants/appellants are entitled for compensation at the rate of Rs.3,000/- (Rupees three thousand only) for each of the lemon and mango trees and

Rs.2,500/- (Rupees two thousand five hundred only) for each pomegranate tree, with all statutory benefits on the enhanced amount.

The claimants/appellants 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.

The appeal is accordingly allowed to the extent indicated above.

No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.



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**SURESH KUMAR KAIT,J**

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**D.V.S.S.SOMAYAJULU, J**

DATE:09—10—2017

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