

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE N. BALAYOGI

APPEAL SUIT Nos.647 and 1237 of 2003

COMMON JUDGMENT: (*Per VRS,J*)

Both these appeals are filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894, questioning the enhancement of compensation granted by the reference Court.

2. Heard the learned Government Pleader for Appeals (AP) appearing for the appellant.

3. An extent of Acs.2.53 cents and above in Survey Nos.61, 62 to 89 and 107 was acquired for the construction of ROB across the existing A-class level crossing in KM 31/8-10 of Bheemunipatnam-Narsipatnam road, near Pendurthi Railway Station. The Land Acquisition Officer fixed the compensation at Rs.2,35,000/- per acre, after taking into account 88 sale transactions during the relevant period.

4. Not satisfied with the compensation so fixed, the claimants sought a reference under Section 18. Two sets of references were made in O.P.Nos.165 and 166 of 1993. By a common judgment, dated 03.07.2002, the Principal Senior Civil Judge, Visakhapatnam, disposed of both the O.Ps., enhancing the compensation from Rs.2,35,000/- per acre to Rs.2,91,123/- per acre. Aggrieved by the

common judgment passed in both the cases, the Land Acquisition Officer has come up with the present appeals.

5. It is seen from the judgment of the Court below that the Land Acquisition Officer took note of 88 sale transactions during the period of three years immediately preceding the date of notification under Section 4(1). After discarding 86 sale transactions, the Land Acquisition Officer accepted two transactions. Under one transaction, the land was sold at the rate of Rs.2,91,123/- per acre. Under second transaction, the land was sold at the rate of Rs.1,80,278/- per acre. The Land Acquisition Officer took an average of both these figures and fixed the compensation at Rs.2,35,000/- per acre.

6. The reference Court found fault with the Land Acquisition Officer for taking such an average. Therefore, taking note of the value of the highest sale, the reference Court enhanced the compensation. It is against the said award that the Land Acquisition Officer is before us.

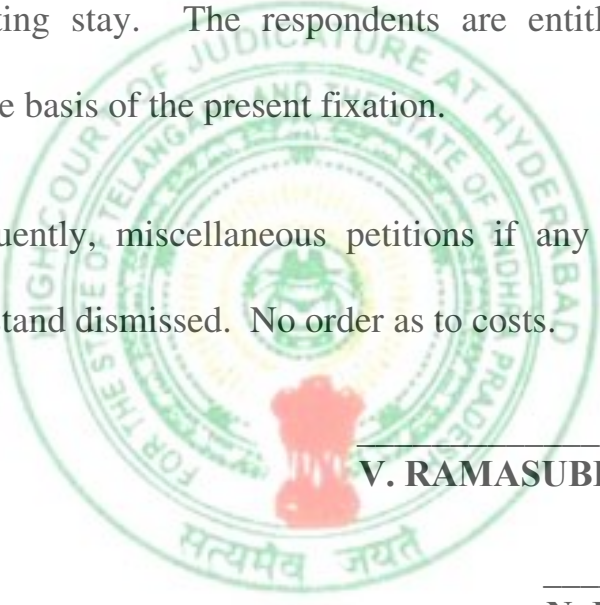
7. It is well settled that when the Land Acquisition Officer takes into account a series of transactions, he should go by the highest value shown among those sale transactions. There is no question of arriving at the average of both the sale transactions.

8. In any case, the enhancement granted is only marginal. Moreover, in the first case, the appellant did not take steps to bring on

record the legal heirs of the deceased 1st respondent, resulting in the appeal being dismissed as against the 1st respondent. Hence, the amount awarded insofar as the 1st respondent in A.S.No.647 of 2003 has attained finality.

9. Therefore, we find no merits in both the appeals. Hence, they are dismissed. While making payment of the balance amount, the appellant is entitled to adjust any amount paid, either pursuant to the award or pursuant to any interim order passed by this Court at the time of granting stay. The respondents are entitled to statutory benefits, on the basis of the present fixation.

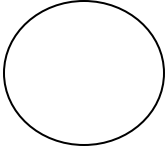
Consequently, miscellaneous petitions if any pending in the appeals shall stand dismissed. No order as to costs.



V. RAMASUBRAMANIAN, J

N. BALAYOGI, J

13th June, 2017
cbs



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN ✓
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI



A.S.Nos.647 & 1237 of 2003
(dismissed)

13th June, 2017

cbs

*THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON'BLE SRI JUSTICE N. BALAYOGI

+APPEAL SUIT Nos.647 and 1237 of 2003

% 13-06-2017

The Special Deputy Collector, N.H.5,
Visakhapatnam

.. Appellant

Vs.

\$ Dogga Suribabu and two others

.. Respondents in
A.S.No.647 of 2003

\$ Smt.Koneti Chittemma and others

.. Respondents in
A.S.No.1237 of 2003

<GIST:



>HEAD NOTE:

! Counsel for petitioner : The Government Pleader (AP)

^ Counsel for respondents : --

? CASES REFERRED : ----