

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

Appeal Suit No.853 of 2002

JUDGMENT : (ORAL)

(per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal the Appellant – Land Acquisition Officer has challenged the judgment and decree dated 5.1.2002 passed in O.P.No.12 of 1999 by the Senior Civil Judge at Narayanpet, Mahabubnagar District, whereby the learned Judge passed a decree as under :

“1. That the market value of the acquired lands of the claimant Nos.1 and 2, bearing Sy.Nos.478 and 487, extent Ac.2.00 and Ac.1.00, dry lands, respectively situated in the limits of Jaklair Village, Makthal Mandal, Mahabubnagar District, be and hereby is enhanced and fixed at Rs.20,000/- per acre, and thus the claimant No.1 is entitled for total market value at Rs.40,000/- and the claimant No.2 is entitled for total market value at Rs.20,000/-.

2. That the claimants are entitled for 30% solatium on the enhanced compensation and that the claimant No.1 is entitled to Rs.12,000/- and the claimant No.2 is entitled to Rs.6,000-00.

3. That the claimants are entitled for 12% additional market value from 13.8.1985, the date of notification under Section 4(1) of the Land Acquisition Act to the date of passing of Award on 18.2.1987; thus the claimant No.1 is entitled to Rs.7,233-00 and that the claimant No.2 is entitled to Rs.3,616-00.

4. That the claimants are also entitled to interest at 9% per annum from 18.2.1987 for a period of one year on the enhanced market value including solatium and that the claimant No.1 is entitled to Rs.4,680/- and that the claimant No.2 is entitled to

Rs.2,340/-; and one year thereafter i.e., from 18.2.1988 till the date of deposit by the Land Acquisition Officer, the claimants are entitled for interest at 15% per annum on the said enhanced amount including solatium.

5. That the claimants are entitled for the above amounts after excluding the amount of Rs.2,769.50 received by claimant No.1 and Rs.1,384.50 ps. received by the claimant No.2 from the Land Acquisition Officer.”

2. The present appeal is filed on the ground that the judgment and decree of the Court below enhancing the market value from Rs.975/- per acre to Rs.20,000/- per acre is contrary to the law, weight of evidence and probabilities of the case. The Court below erred in placing reliance upon Ex.A1 - sale deed which is of a small extent sold on yard basis and is not a comparable sale in any manner.

3. The respondents – claimants filed the petition before the Court below claiming that the sales transactions in the Award cannot be taken for ascertainment of market value and the Land Acquisition Officer could have adopted valuation mentioned in Sale deeds dated 11.4.1983 and 20.1.1984 to fix the value of land. The market value in Jaklair Village is not less than Rs.40/- per square yard and the acquired land is abutting to the village and acquired for the purpose of providing house sites. The Land Acquisition Officer ought to have taken into consideration the potentiality of the land instead of *bagana*. Accordingly, respondents-claimants prayed that they may be awarded Rs.60/- per square yard.

4. The case of Appellant – Land Acquisition Officer is that the award was passed after considering registered sale transaction for a period of 3 years preceding the date of notification i.e., 13.8.1985 and submitted that land in Sy.Nos.478 and 487 are agricultural lands and dry crops were raised in the said lands. The pattedars gave the land which is backside and kept the land abutting to the road. It is further submitted that the sale transactions related to small pieces of land of Ac.0.04 guntas and Ac.0.01 gunta and, in view of large extent of land of Acs.3.00 guntas was acquired, the said transactions were not taken into consideration. The sales relied by claimants dated 19.10.1984 were created to boost the value and acquired land is back side and far away from the road. Accordingly, the Land Acquisition Officer relied upon sale in Sy.No.465 under Document dated 22.11.1982. However, the respondents – claimants claimed in the petition that the value of the land is Rs.40,000/-, whereas in the present claim they are claiming Rs.1,93,600/- per acre, which is highly exorbitant. In the Award proceedings, claimants claimed compensation at the rate of Rs.17/- per square yard, whereas, the present claim is for Rs.60/- per square yard, which is exorbitant.

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

6. The respondents – claimants to prove their claim examined P.W.1 - Sri B.Venkat Reddy, P.W.2 – Sri Venkat Ramulu and got marked Ex.A1 – Sale Deed, dated 21.1.1984, Ex.A2 – Sale Deed, dated

21.1.1984. The Land Acquisition Officer examined R.W.1 – Khaja Qutubuddin and got marked Ex.B1 – Award and Ex.B2 – Sale deed dated 22.11.1982. Ex.B3 is the certificate of Registrar.

7. After considering the rival contentions, the learned Court below framed the issue as under :

“Whether the claimants are entitled to compensation @ Rs.60/- per square yard and whether the compensation awarded by Land Acquisition Officer is just and reasonable.”

8. The evidence of P.W.1 establishes that the acquired land is adjacent to Jaklair Village and is by the side of State Highway of Raichur to Hyderabad. On 21.1.1984 under Ex.A1 one Linganna sold 100 yards in Sy.No.487 to P.W.2 for Rs.4,000/- and the acquired land in Sy.No.478 is situated on the eastern side of the land in Ex.A1, accordingly, the land value is Rs.60/- per square yard.

9. P.W.2 stated that he purchased 100 yards land at the rate of Rs.40/- per yard in Sy.No.487 and there is a road abutting to Sy.No.487 and as on date of purchase, the land was sold at the rate of Rs.40/- per square yard.

10. R.W.1 stated that the acquired land's market value is Rs.975/- per acre which was fixed on the basis of Ex.B2 – Sale Deed, dated 22.11.1982 and Ex.B1 is the Award and Ex.B3 is the Certificate of Sub-Registrar, dated 23.11.2001.

11. In view of the above, the learned Court below observed that from the evidence of P.Ws.1 and 2 and R.W.1 it is evident that Jaklair

Village is situated about half kilometre to one kilometre from the road leading from Mahabubnagar to Raichur. Sy.Nos.487 and 478 are adjacent to each other and situated by the side of the road leading from Jaklair to State Highway, Mahabubnagar to Raichur and the land in the said survey numbers is adjacent to village between Jaklair village and Raichur road.

12. In the case in hand, the Section 4(1) notification was published on 13.8.1985. The land acquired is Ac.1.00 guntas in Sy.No.487 and Acs.2.00 guntas in Sy.No.478 of Jaklair village and both the lands are dry lands. The land acquired was for the purpose of providing house sites for weaker sections. The Land Acquisition Officer relied upon Ex.B2 - sale deed, dated 22.11.1982, whereunder land in Sy.No.405 was sold at the rate of Rs.975/- per acre.

13. It is not the case of R.W.1 that the said survey number is adjacent to the village. R.W.1 in his cross-examination admitted that there were directions by Commissioner of Land Revenue that the compensation to be awarded shall not exceed the valuation given by him. He stated that Ex.A1 - sale deed dated 21.1.1984 was not mentioned in Ex.B1 - Award. He also admitted that it pertains to Sy.No.487. It is further admitted that the said sale transaction is a best guide if it is prior to notification under Section 4(1) dated 11.8.1985.

14. It is not in dispute that the notification under Section 4(1) dated 11.8.1985 was published on 13.8.1985. In this regard, R.W.1 admitted that there was no proposal to acquire the land in January, 1984 and the

proposals to acquire only started in August, 1984. He also admitted that Ex.A1 was not executed to inflate the value of the land. Also admitted that the *bagana* numbers were not revised after independence. He stated that while considering the similar sales, *bagana* numbers will be considered.

15. It is evident from the above deposition of R.W.1 that the Land Acquisition Officer wilfully omitted mentioning of Ex.A1 - sale deed, dated 21.1.1984 in the Award, as observed by the Court below. The said sale deed did not take place in contemplation of impending acquisition of land. The Land Acquisition Officer fixed the market value keeping in mind the rates prescribed by Commissioner of Land Revenue. Accordingly, the market value fixed by Land Acquisition Officer under Ex.B1 is very low and capricious.

16. Ex.A1 is sale deed dated 21.1.1984 wherein P.W.2 purchased 100 square yards land in Sy.No.487 for Rs.4,000/- at the rate of Rs.40/- per square yard. This land is on the back side of the houses of Jaklair Village. Since the land acquired is consisting of 3 acres, the market value cannot be fixed in square yards. However, the Court below observed that this valuation will help the Court to arrive at reasonable market value, since the sale had taken place in the Sy.No.487, out of which a part of one acre land was acquired.

17. In the present case, the learned Court opined that some land is required for formation of roads and also certain vacant areas as per the bye-laws prescribed by Civil Authorities, therefore, under those

circumstances, it is reasonable to fix the market value of acquired land at the rate of Rs.20,000/- per acre in view of the fact that the land was being sold at the rate of Rs.40/- per yard.

18. Ex.B2 was with regard to sale which took place more than 2 to 3 years back prior to acquisition and it is not the case of R.W.1 that the said land is adjacent to village.

19. It is pertinent to mention here that pursuant to the order of this court dated 18.10.2016, the record of Ex.B2 is produced. The said document does not say anything about the rate of the land. Therefore, we just ignore Ex.B2 from the proceedings before this Court. In addition to above, the learned Court below has given reasons to arrive at the market value at the rate of Rs.20,000/- per acre.

20. It is not the case of the appellant herein that the adjacent land was sold on a lesser amount than the land in question.

21. Accordingly, we find no merit in the instant appeal and the appeal is dismissed. No order as to costs.

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

JUSTICE SURESH KUMAR KAIT

JUSTICE N.BALAYOGI

03rd August, 2017
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