THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SMT. T. RAJANI

L.A.A.S. NO.101 OF 2015

DATED:15-02-2017

Between:

The Land Acquisition Officer &
Special Deputy Collector,
Unit VII, Outer Ring Road Project
HMDA Complex, Tarnaka
Hyderabad … Appellant

And

Nabeel Husain
and others … Respondents

COUNSEL FOR THE APPELLANT: Mr. K. Vivek Reddy,
Representing the Advocate General (TS)

COUNSEL FOR THE RESPONDENTS: Mr. G. Anandam

THE COURT MADE THE FOLLOWING:

<u>JUDGMENT:</u> *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

This appeal is filed by the Land Acquisition Officer and Special Deputy Collector, Unit-VII, Outer Ring Road, Hyderabad Urban Development Authority (HUDA), feeling aggrieved by order and decree dt.8.9.2014 in O.P. No.79 of 2012 whereby she has enhanced the compensation of Rs.2,09,000/- per acre to Rs.2,000/- per sq. yard.

We have heard Mr. K. Vivek Reddy, learned counsel representing the learned Advocate General for the State of Telangana, and Mr. G. Anandam, learned counsel for the respondents.

An extent of 7647 sq. yards in Sy. Nos.120, 121 and 127 situated at Kismathpur Village of Rajendranagar Mandal, Ranga Reddy District, belonged to the respondents, was acquired for the purpose of outer ring road in the combined State of Andhra Pradesh under notification dt.30.06.2004, published under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'). An award was passed on 13.12.2005 fixing the market value at Rs.2,09,000/- per acre in addition to the statutory benefits. Not satisfied with the said award, the respondents have sought reference of the dispute to the competent civil court, under Section 18 of the Act. By the aforementioned order, the compensation has been enhanced to Rs.2,000/- per sq. yard excluding statutory benefits.

A perusal of the order of the reference Court shows that it has relied upon Exs.P.2 to P.4, which pertain to plot allotment deeds dt.13.05.2011 executed by HUDA in favour of the land owners, whose lands were taken for the construction of the outer ring road. As rightly pointed out by Mr. Vivek Reddy, the reference Court has committed an error in adopting the value mentioned in the said documents without proper deductions in view of tame gap between the date of acquisition and the date of allotment. Mr. G. Anandam has not disputed the fact that the value of the plots shown in Exs.P.2 to P.4 reflects the market value prevailing at the time of execution of those deeds. Ordinarily, the value reflected in contemporaneous documents needs to be considered for arriving at proper market value. The respondents failed to file any such document before the reference Court. In the absence of such evidence, even if the reference court proposed to rely upon those documents, it ought to have made reasonable deductions towards expected annual increase in the market value between 2004 and 2011, when Exs.P.2 to .4 were executed. As noted above, the notification under Section 4(1) of the Act was published on 30.06.2004, i.e., almost seven years prior to the allotment of the plots under Exs.P.2 to P.4. If the value of the plot was taken as Rs.2,000/- in 2011, in our opinion, at least 9 to 10% therefrom per annum has to be deducted in order to arrive at an approximate value of the plots in the year 2004, when the notification under Section 4(1) of the Act was published. If the price is worked out on this basis, the value of the land will come to about Rs.750/- per sq. yard. This, in our view, is proper and correct approach to arrive at the proper market value of the acquired plots prevailing as on the date of the notification issued under Section 4(1) of the Act.

Accordingly, we hold that fixation of Rs.2,000/- per sq. yard for the land acquired, by the reference court, is not sustainable and the market value is fixed at Rs.750/- per sq. yard. The respondents are entitled to all statutory benefits in addition to the aforementioned amount.

Mr. K. Vivek Reddy submitted that the reference court has wrongly adopted the extent of land as more than Acs.2.00, whereas the total extent of the land belonging to the respondents and acquired by the State was only 7,647 sq. yards. Mr. G. Anandam has fairly admitted this position.

For the aforementioned reasons, the appeal is partly allowed and the value of the land is fixed at Rs.750/- per sq. yard, in addition to all the statutory benefits payable to the respondents. The order under appeal accordingly stands modified to the extent indicated above. The appellant is free to utilize the amount, if any, available in deposit to the credit of the O.P. in pursuance of the interim order of this Court, pending this appeal, for the purpose of payment of the balance amount to the respondents, and the excess amount, if any, is permitted to be withdrawn by them.

As a sequel to disposal of the appeal, L.A.A.S. M.P. Nos.408, 409 and 670 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

T. RAJANI, J

15-02-2017

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