

THE HON'BLE SRI JUSTICE V. ESWARAIAH
AND
THE HON'BLE SRI JUSTICE NOUSHAD ALI

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A.S. No.2063 of 2000

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Date : 17-08-2010

Between :
S.A.Ismail

.. Appellant

And

The Land Acquisition Officer-cum-
Sub-Collector, Madanapalle, Chittoor District.

...Respondent

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This Court made the following:

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THE HON'BLE SRI JUSTICE V. ESWARAIAH
AND
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-
A.S. No.2063 of 2000

JUDGMENT: (Per Hon'ble Sri Justice V. Eswaraiah)

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This appeal is filed by the claimant seeking enhancement of the

compensation awarded by the Principal Subordinate Judge, Chittoor in O.P.No.5 of 1990, dated 23.8.1997.

The lands of the appellant-claimant to an extent of Ac.2.01 cents (Ac.1.00 dry land in Sy.No.272 and Ac.1.01 cents dry land in Sy.No.273) situated in Patrapalle village, V.Kota Mandal were acquired by Government for construction of Agricultural Market Yard at V.Kota under Award No.11 of 1988-89, dated 8.9.1989 pursuant to the notification issued under Section 4(1) of the Land Acquisition Act, 1894 published on 17.6.1989. The Land Acquisition Officer awarded compensation at the rate of Rs.16,500/- per acre. On reference being made, the reference Court declined to enhance the compensation and dismissed the O.P., against which, this appeal is filed.

The parties hereinafter are referred to as they are arrayed in the O.P.

It is the case of the claimant before the reference Court that the compensation paid by the Land Acquisition Officer is highly unjust, improper and far below the market value and that the lands are admittedly acquired for construction of agricultural market yard i.e. for commercial purpose and that they got potential value for use of house-sites and for commercial purpose. The acquired lands are situated within the V.Kota Gram Panchayat limits, abutting V.Kota-K.G.F. & Bangalore Trunk Road on its north and that V.Kota is a Mandal headquarter and very close to the acquired land on its west. The adjacent land and other lands were already acquired for the market yard on the east of Patrapalle village and that the surrounding lands were also converted into the house-sites. It is stated that the acquired lands are proposed for the industrial area and the plots in the adjacent lands are sold for house-sites. In fact, the house site sold in Sy.No.282/1 in the year 1986 reflects the market value at the rate of Rs.2,50,000/- per acre. Therefore, awarding of the compensation at the rate of Rs.16,500/- per acre is meager and the claimant is also entitled for additional benefits i.e. 30% solatium, 12% additional market value and interest. The Land Acquisition Officer denied the averments made in the claim petition and stated that the compensation awarded is just and reasonable.

Before the reference Court, the claimant himself examined as R.W.1 apart from examining R.Ws.2 to 4 and got marked Exs.B.1 to B.12. The Commissioner's report and the plan were marked as Exs.C.1 and C.2.

It is the evidence of claimant as R.W.1 that as per Ex.B.2, the proposal of the claimant for installation of decordicator, Oil Expellor and plower mill was approved and under Ex.B.3 he obtained loan of Rs.2,00,000/- from A.P. State Financial Corporation by depositing the title deeds. As per Exs.B.6 and B.7, valuation certificates, dated 4.5.1996 and 7.11.1996 the value of the adjacent land is Rs.1,500/- per sq.yd. As seen from Ex.C.1, the report of the commissioner, there is a development in and around the acquired land and therefore, the claimant is entitled to the compensation at the rate of Rs.1,00,000/- per cent. R.W.2 is the adjacent land owner who stated that the value of the land is Rs.1,50,000/- per cent. R.W.3 is the purchaser under Ex.B.10 sale deed, dated 4.3.1989 whereunder he purchased the Ac.0.05 cents of land at the rate of Rs.120/- per sq.yd. In the cross-examination, he admitted that the land covered by Ex.B.10 is 3/4th k.m. away from V.Kota and that he has purchased the said land for construction of house. R.W.4 is the vendor of the land sold under Ex.B.8, which is at a distance of 60 to 70 metres away from the acquired land. Under Ex.B.8 he sold the land to an extent of Ac.0.04 cents for a consideration of Rs.23,300/- which works out to Rs.120/- per sq.yd.

The Land Acquisition Officer was examined as P.W.1 and Exs.A.1 to A.4 were marked on his behalf. He deposed that the Government also acquired the adjacent lands vide award No.5 of 1982, and that there is no commercial activity in and around the acquired land. He stated that as per Ex.A.1 compensation was awarded at Rs.16,500/- per acre basing on the relevant sale deeds.

The question that arises for consideration in this appeal is whether the claimant is entitled for any enhancement of compensation.

We have perused Ex.A.1 award. As seen from Ex.A.1, the Land Acquisition Officer considered seven sale deeds, which are prior to the date

of acquisition of the land. In the instant case, the notification issued under Section 4(1) of the Act was on 17.6.1989. The Land Acquisition Officer discarded the three sale deeds i.e. item Nos.1,6 and 7 on the ground that the said sale deeds cover small extents of land which were admittedly sold for the purpose of house-sites. The other sale deeds i.e. items 5 and 3 were also discarded on the ground that though the house-sites covered by the said sale deeds were sold at the rate of Rs.4,90,000/- and Rs.5,88,000/- per acre, the basic value of the land under acquisition is only Rs.9,600/- and there is a vast difference in the value between the land covered by the said sales and the basic value of the lands under acquisition and that these lands are of site value and smaller extents will fetch more value than the bigger extents. Hence, the sale deeds covered by items 5 and 3 were discarded. The land Acquisition Officer considered the remaining two sale deeds (items 2 and 4). Under the sale deed vide document No.2339, dated 25.9.1986 the land was sold at the rate of Rs.9,489/- per acre covering the total extent of Ac.1.37 cents. In another sale deed vide document No.632, dated 28.3.1989 an extent of Ac.0.40 cents of land in Sy.No.339/2 was sold at the rate of Rs.16,250/- per acre. The Land Acquisition Officer considered that the C.S.T. of both these lands (covered by items 2 and 4) are similar to that of the land under acquisition, but the basic value of the land acquired is Rs.9,600/- in the year 1989, and whereas, the basic value of the land covered by those two sale deeds was Rs.6000/- in the year 1980. Thus, he has not taken into account even the said sale deeds for the purpose of considering the fair market value, but he has taken into account the award No.5/1982, dated 8.10.1982 relating to the acquisition in 1982 in respect of the land in Sy.Nos.259, 260, 271/3 and 270 whereunder the compensation was determined at the rate of Rs.13,400/- per acre. Considering the lapse of seven years, the sale transaction covered by document No.632, dated 28.3.1989 and in view of strategic location of the land which is abutting to V.Kota-K.G.F. road on the Northern side, Sreenivasa Touring Talkies and a Saw Mill and considering the proximity of the land to the Mandal Headquarters, the Land Acquisition Officer fixed the market value of the acquired land at Rs.16,500/- per acre.

Admittedly, the abutting lands to the acquired land were acquired in the year 1982 and compensation was paid at the rate of Rs.13,400/- as seen from the award No.5 of 1982, dated 8.10.1982. In the instant case, as the lands were acquired seven years after the said acquisition covered by Award No.5 of 1982, the claimant-appellant herein is entitled to 10 percent escalation per annum and for seven years he is entitled for 70 per cent escalation. If 70 per cent escalation is added to Rs.13,400/-, it works out to Rs.22,780/-, which can be rounded off to Rs.23,000/-. Therefore, we are of the opinion that the fixation of the market value of the acquired land at the rate of Rs.23,000/- per acre is just, proper and it reflects the true and fair market value of the acquired land.

Accordingly, the appeal is allowed in part awarding the market value for the acquired land at the rate of Rs.23,000/- per acre. It is made clear that the claimant is also entitled for all the statutory benefits on the compensation. There shall be no order as to costs.

V. ESWARAIAH, J

NOUSHAD ALI, J

AUGUST 17, 2010
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