

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

and

THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

L.A.A.S.No.669 of 2010

Between:

Saida Bee, W/o Sadiq Ali, R/o Raipally,
Manoor Mandal, Medak District

... Appellant

Vs.

The Government of Andhra Pradesh, through
Special Deputy Collector (L.A.), Singoor Project,
Medak at Sanga Reddy,

.. Respondent

For Appellant : Mr. M. Venkataram Reddy

For Respondents : Mr. G.P. for Appeals (Telangana)

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE T. AMARNATH GOUD

L.A.A.S.No.669 of 2010

JUDGMENT: (V. Ramasubramanian, J)

The land owner has come up with the above appeal under Section 54 of the Land Acquisition Act, 1894, seeking enhancement of compensation, over and above what was granted by the Reference Court under Section 18 of the Land Acquisition Act, 1894.

2. Heard Mr. M. Venkataram Reddy, learned counsel for the appellant and the learned Government Pleader for Appeals (Telangana).

3. An extent of Ac.1.30 guntas of land in Survey No.100/3B and an extent of Ac.1.06 guntas of land in Survey No.100/5D in Raipally village was acquired by the Government for submergence in Singoor Project. The Land Acquisition Officer, Singoor, passed an award on 07-04-1986, fixing the compensation at Rs.5,000/- per acre.

4. The land owner sought reference and the matter was referred to the Court of Senior Civil Judge, Sangareddy in O.P.No.49 of 1997. The reference Court enhanced the compensation from Rs.5,000/- per acre to Rs.12,000/- per acre. The Land Acquisition Officer has accepted the enhancement. However, the land owner has come up with the above appeal seeking enhancement to Rs.20,000/- per acre.

5. Though the appellant was satisfied with an enhancement to Rs.20,000/- per acre at the time when she filed the above appeal, she found to her good fortune and to the misfortune of the State that in a connected appeal, this Court enhanced the compensation to Rs.26,044/- per acre. Therefore, the appellant seeks the same relief.

6. It is conceded that by a judgment dated 28-06-2011 passed in A.S.No.1967 of 2002, the compensation was enhanced by this Court from Rs.12,000/- per acre to Rs.26,044/- per acre in respect of the lands in the very same village acquired for the very same purpose under the very same notification. However, it is strenuously contended by the learned Government Pleader for Appeals that the appellant, having restricted her claim to Rs.20,000/- per acre, cannot seek anything more. In support of his contention, the learned Government Pleader pressed into service the judgment of another Division Bench of this Court in LAAS.Nos.621, 622 and 623 of 2010 dated 01-02-2017. In the said case, this Court rejected the request for enhancement to Rs.26,044/- on the ground that the appellants therein had restricted their claim to Rs.25,000/- per acre. Therefore, it is contended by the learned Government Pleader that allowing the appellants to go beyond the claim made in the memorandum of appeal, may open the flood gates.

7. We have carefully considered the above submissions.

8. The law is settled to the effect that a reference Court or this Court dealing with an appeal under Section 54 of the Act, is not bound by what a claimant seeks or what the Land Acquisition Officer has awarded. The endeavour under Section 18 of the Act is not to

decide the dispute in an adversarial litigation. The endeavour under Section 11 A of the Act on the part of the Land Acquisition Officer, under Section 18 of the Act on the part of the Reference Court and under Section 54 of the Act on the part of this Court is to find out the correct amount of compensation payable for the land. Once such a compensation has been arrived at by one Court, irrespective of whether a claimant has sought more or less, the benefit should be made available. The logic is simple. The amount fixed as compensation is actually on the basis of the market value determined by this Court. Once the market value as fixed by this Court in one case at Rs.26,044/- per acre, no claimant can be paid less than the market value on the ground that they were happy with the said amount.

9. The flood gate theory cannot also be applied in case of land acquisition. This is for the simple reason that under Section 28 A of the Act, all persons interested in the lands covered by the same notification, can seek the very same amount of compensation as determined for one of the claimants. Therefore, the eventuality that the State seeks to avoid can never be avoided in the light of Section 28 A of the Land Acquisition Act, 1894.

10. Therefore, the appeal is allowed, enhancing the compensation to Rs.26,044/- per acre. The appellant shall pay the difference in court fee before the certified copy of the decree is handed over to the appellant. The appellant will also be entitled to all other statutory benefits as provided in law.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

T. AMARNATH GOUD, J

Date: 31-01-2018

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