

**In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra Pradesh**

A.S. No.1686 of 1998

Between:

**Dodla Kodandarami Reddy (died)
Per Lrs. Dodla Manohar**

... Appellant

and

**The Land Acquisition Officer
(Revenue Divisional Officer),
Kavali, Nellore District.**

...Respondent

Date of Judgment Pronounced: 12-04-2018

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice D.V.S.S.Somayajulu

- | | |
|--|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the judgments ? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? | Yes/No |

(C.V.Nagarjuna Reddy, J)

(D.V.S.S.Somayajulu, J)

* The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice D.V.S.S.Somayajulu

+ A.S.No.1686 of 1998

% Dated 12.04.2018

Between:

Dodla Kodandarami Reddy (died)

Per Lrs. Dodla Manohar

... Appellant

and

The Land Acquisition Officer
(Revenue Divisional Officer),
Kavali, Nellore District.

...Respondent

! Counsel for appellant No.2: Mr.R.Sridhar

^ Counsel for the respondent: GP for Appeals (AP)

<GIST:

>HEAD NOTE:

? Cases cited:

2013 (6) ALD 10 (SC)
AIR 1997 SC 2625
2010 (3) ALD 123 (SC)
(2009) 4 SCC 402

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice D.V.S.S.Somayajulu

AS.No.1686 of 1998

Dated 12.04.2018

Between:

Dodla Kodandarami Reddy (died)
Per Lrs. Dodla Manohar

... Appellant

and

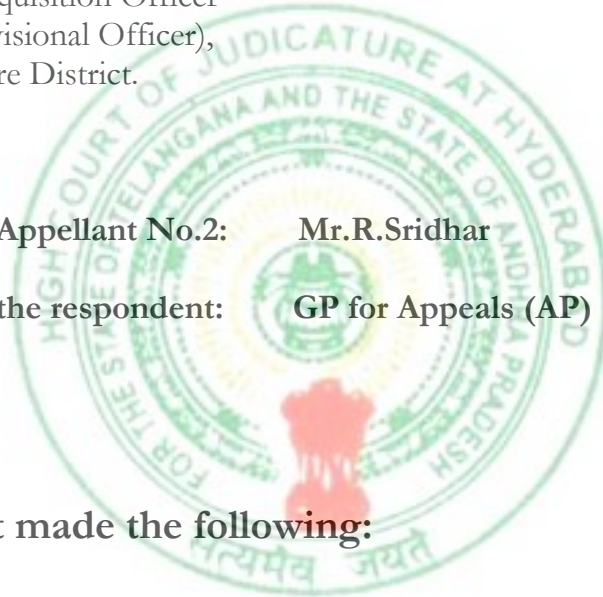
The Land Acquisition Officer
(Revenue Divisional Officer),
Kavali, Nellore District.

...Respondent

Counsel for Appellant No.2: Mr.R.Sridhar

Counsel for the respondent: GP for Appeals (AP)

The Court made the following:



Judgment: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The claimants in OP.No.12 of 1991 on the file of the Subordinate Judge, Kavali, filed this Appeal feeling aggrieved by refusal of the Reference Court to enhance compensation in respect of one acre of land in Survey No.823/1-2 in Kavali Bit No.1 Village, acquired for construction of coaxial dropping repeater station.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'), was issued on 13.09.1991 and the award was passed on 03-03-1991 by the Land Acquisition Officer fixing compensation of Rs.75,560/- per acre. Not satisfied with the said quantum of compensation, appellant No.1 sought for reference of the dispute to the Reference Court under Section 18 of the Act. Accordingly, the respondent has referred the dispute to the Reference Court, which was registered as OP.No.12 of 1991.

In support of his claim for enhancement @ Rs.150/- per square yard, appellant No.1 examined himself as PW.1

and two others as PWs.2 and 3 and got Exs.A.1 to A.3 marked. The respondent has examined himself as RW.1 and got Ex.B.1 marked. The Court has got Exs.X1 and X.2 marked.

On appreciation of oral and documentary evidence, the Reference Court has refused to enhance the compensation and closed the OP. Feeling aggrieved thereby, appellant No.1 has filed the present Appeal. During the pendency of the appeal, appellant No.1 died and his son was brought on record as appellant No.2 *vide* Order, dated 16-12-2005, in IA.No.3 of 2003 (ASMP.No.22897 of 2003).

Mr.R.Sridhar, learned Counsel for appellant No.2, submitted that the Reference Court has committed an error in discarding Exs.A.1 and A.2 only on the ground that they pertain to house sites whereas the acquired land is a larger extent admeasuring Ac.1-00 and that therefore, the sales made under Exs.A.1 and A.2 cannot be treated as comparable sales. He has placed reliance on the judgment of the Supreme Court in **Ahsanul Hoda vs. State of**

Bihar¹ in support of his submission that even smaller extents of lands can be made basis for fixation of market value for larger extents of lands provided the sales are comparable.

Ex.A.1 is the extract of the registered sale deed, dated 24-12-1988, and whereas Ex.X.2 is the original registered sale deed. Under this document, PW.1 sold 400 square yards of land in the same survey number in which the acquired land is situated *i.e.*, Survey Number.823/1 to PW.3 @ Rs.125/- per square yard. Ex.A.2 is the extract of the registered sale deed, dated 04-07-1984, executed by appellant No.1 in favour of PW.2 and the original registered sale deed was marked as Ex.X.1. Under this transaction, PW.1 sold Ac.0-16 2/3 cents or 800 square yards of land in the same survey number as the one in which the land in Ex.A.1 was sold for sale consideration of Rs.30,000/-, which works out to Rs.37.50 ps., per square yard. The plea raised on behalf of the respondent that Exs.A.1 and A.2 were brought up for claiming higher compensation was conclusively repelled by the Reference

¹ 2013 (6) ALD 10 (SC)

Court on the ground that both these documents were legally proved by examining both the vendor and the vendees. The Reference Court also relied upon the judgment of the Supreme Court in **Special Deputy Collector and another vs. Kurra Samba Siva Rao and Others**² and held that as the lands under Exs.A.1 and A.2 are situated in the same survey number in which the acquired land is situated, they are very much relevant for determining the market value of the acquired land. Having so held, the Reference Court has, however, refused to place reliance upon the sale deeds only on the sole ground that the transactions therein pertain to smaller extents of 400 and 800 square yards of land and that therefore, they cannot be relied upon.

In our opinion, the Reference Court has not properly guided itself on the settled legal position. In **Haridwar Development Authority vs. Raghbir Singh and others**³, the Supreme Court held as under:

“When the value of a larger extent of agricultural land has to be determined with reference to the price

² AIR 1997 SC 2625

³ 2010 (3) ALD 123 (SC)

fetches by sale of a small residential plot, it is necessary to make an appropriate deduction towards the development cost, to arrive at the value of the large tract of land. The deduction towards development cost may vary from 20% to 75% depending upon various factors. Even if the acquired lands have situational advantages, the minimum deduction from the market value of a small residential plot, to arrive at the market value of a larger agricultural land, in the usual course, will be in the range of 20% to 25%. In this case, the Collector has himself adopted a 25% deduction which has been affirmed by the reference Court and the High Court. We, therefore, do not propose to alter it.”

Reiterating the legal position as reflected in **Haridwar Development Authority vs. Raghubir Singh and others** (3 supra), the Supreme Court in **Ahasanul Hoda vs. State of Bihar** (1 supra) held that the main reliance placed by the Court on sale deeds of small residential or agricultural areas will not render the determination illegal until and unless it is shown that such determination was not proper.

The learned Government Pleader for Appeals, while fairly not disputing the settled legal position as reflected in

the aforementioned judgments, however, placed reliance on the judgment of the Supreme Court in **Mummididi Apparao (died) through LRs vs. Nagarjuna Fertilizers and Chemicals Limited and another**⁴ to drive home his plea that where the acquired land is a larger extent without conversion into house sites by way of plots, deduction of 50% towards development charges is reasonable.

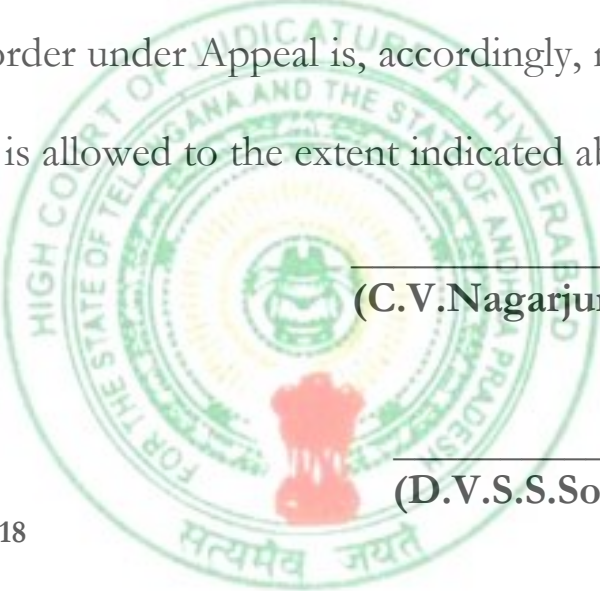
Mr.R.Sridhar, learned Counsel for appellant No.2, has not joined issue with the learned Government Pleader on the percentage of deduction towards development charges.

From the observations of the Reference Court, it is evident that though the plots were purchased by PWs.2 and 3 under Exs.A.1 and A.2 in the years 1984 and 1988 respectively, houses were not constructed and that there were no houses in the vicinity *albeit* the fact that the land has the potentiality for conversion into house sites. In these facts and circumstances of the case, we are of the

⁴ (2009) 4 SCC 402

opinion that by adopting the price under Ex.A.1, which is in close proximity in time with the notification issued under Section 4(1) of the Act, deduction of 50% towards development charges is reasonable. Accordingly, the compensation is enhanced from Rs.75,500/- per acre to Rs.62.50 ps., per square yard with all permissible statutory benefits as awarded by the Reference Court.

The order under Appeal is, accordingly, modified and the Appeal is allowed to the extent indicated above.


(C.V.Nagarjuna Reddy, J)

(D.V.S.S.Somayajulu, J)

Date: 12-04-2018

Note:
LR copies
B/o
lur

