

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

A.S. No.691 of 2003

Date: 19.04.2018

Between:

Amena Begum and others

..... Appellants

And:

The Government of Andhra Pradesh,
Rep. by the Land Acquisition Officer (HUDA),
Ranga Reddy District, Hyderabad.

.....Respondent

Counsel for the appellant: Mr. Sunil B. Ganu

Counsel for the respondents: Learned Government Pleader for Appeals (TS)

The Court made the following:



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

The claimants in O.P.No.203 of 1987 on the file of the II Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, filed this appeal against award and decree, dated 24.10.2000, whereby it has enhanced the compensation from Rs.20,000/- per acre to Rs.60,000/- per acre along with all statutory benefits, to which the claimants are entitled under the provisions of the Land Acquisition Act, 1894 (for short, 'the Act').

Acting upon the requisition made by the then Hyderabad Urban Development Authority (for short, 'HMDA'), the Collector, Ranga Reddy District, notified an extent of Acs.101.23 guntas of land in various survey numbers, which included Survey Nos.750, 751, 752, 753, 746/1, 746/2, 747, 766/1 and 766/2 situated at Shamshabad Village, for establishment of truck terminal-cum-residential complex. The draft notification under Section 4(1) of the Act was published on 16.09.1982. Separate awards were passed in respect of different parcels of land situated in different survey numbers. It is pertinent to note in this context that the appellants and other joint owners have entered into a family arrangement after the publication of draft notification dividing the land in Survey No.766 into three blocks, namely, 766(A), (B) and (C). The Land Acquisition Officer has passed separate awards for each block. The present case is concerned with Block (A) of Survey No.766

admeasuring Ac.5.21 guntas of land. The Land Acquisition Officer, by his award, dated 13.05.1987, determined the compensation @ Rs.20,000/- per acre, apart from granting additional market value at 12% and solatium of 30%. Being dissatisfied with the said award, the appellants have got the dispute referred to the lower Court (for short, 'the reference Court') under Section 18 of the Act. In this context it is relevant to note that the Land Acquisition Officer has also valued two wells and trees separately. Since no specific evidence was let in for claiming higher compensation for the wells and trees, learned counsel for the appellants has not pressed the ground raised in the appeal pertaining to the same.

In support of their claim for higher compensation, the claimants have examined P.Ws.1 and 2 and got Exs.A.1 to A.9 (a) marked. On behalf of the Land Acquisition Officer, R.Ws.1 and 2 were examined and Exs.B.1 to B.14 were marked. On consideration of the oral and documentary evidence, the reference Court has disposed of the case in the manner as noted herein before.

Mr. Sunil B. Ganu, learned counsel for the appellants, submitted that the reference Court has committed a serious error in awarding the same compensation to Block 'A' as was awarded for 'B' and 'C' Blocks of Survey No.766. He has taken this Court though Ex.A.2-map and submitted that while Block 'A' is abutting

the Hyderabad-Bangalore National Highway, Blocks 'B' and 'C' are located behind Block 'A'. He has, accordingly, submitted that as Block 'A' has the advantage of abutting the National Highway, it inherently possesses higher potential for being used for commercial purpose and consequently, it has highest market value and that the reference Court has fallen into a grievous error equating Block 'A' of Survey No.766 with Blocks 'B' and 'C' of Survey No.766 and fixing the same compensation as fixed for the latter Blocks.

Learned Government Pleader for Appeals (TS) sought to sustain the award under appeal.

We have carefully considered the submissions of the learned counsel for the parties with reference to the evidence on record and the award of the lower Court.

The reference Court, in its order, has adopted the reasoning that in Ex.B.6-judgment of this Court in Appeal Nos.1436 of 1991 and batch arising out of O.P.Nos.202 and 204 of 1987, this Court enhanced the compensation for 'B' and 'C' Blocks of Survey No.766 to Rs.60,000/- per acre and as 'A' Block also fell in the same survey number i.e., 766, which belongs to the same family, the value fixed by this Court in Ex.B.6 is required to be adopted. We find a serious fallacy in this reasoning, for it is not the pleaded case of the State that the partition, which took place after the issuance of

draft notification under Section 4(1) of the Act, was a make believe affair intended to derive undue benefit of securing higher compensation. On the contrary, the Land Acquisition Officer himself has recognised such partition and divided the property in Survey No.766 belonging to the family of the appellants and others into three separate blocks, namely, Blocks 'A', 'B' and 'C' and passed separate awards in respect thereof. The claimants in respect of these three Blocks are different from each other. The appellants herein to whose share Block 'A' fell were not parties to O.P.Nos.202 and 204 of 1987 pertaining to Blocks 'B' and 'C' respectively.

We have carefully gone through Ex.B.6-judgmnet in A.S.Nos.1546 and 1562 of 1992, which arose out of a batch of O.Ps., including O.P.Nos.202 and 204 of 1987, pertaining to Blocks 'B' and 'C' forming part of Survey No.766. In the said judgment, the claimants therein pleaded that there is no justification for the Land Acquisition Officer to treat the lands in Blocks 'B' and 'C' of Survey No.766 on par with the lands situated in Survey Nos.609, 610 and other survey numbers and fix uniform compensation. It is their further pleaded case that the lands in Survey Nos.609 and 610 are one kilometre away from the acquired lands falling in Blocks 'B' and 'C' of Survey No.766, which are situated nearer to the national highway. This Court, while accepting the said plea, observed that

the lands in Blocks 'B' and 'C' of Survey No.766 are nearer to the Hyderabad-Bangalore National Highway, whereas the lands in Survey Nos.609 and 610 are away from the said lands. While taking note of the fact that the reference Court has fixed Rs.40,000/- as compensation for the land in Survey Nos.609 and 610, this Court has enhanced the compensation for the lands in Blocks 'B' and 'C' of Survey No.766 to Rs.60,000/- per acre.

What requires to be considered in the instant case is that the locational advantages which Block 'A' of Survey No.766 possess. Ex.A.2-map clearly shows that while the land in Block 'A' is abutting the Hyderabad-Bangalore National Highway, Blocks 'B' and 'C' are located behind Block 'A' with frontage on to the bye-road emanating from the national highway.

As noted hereinbefore, the value for the lands of 'B' and 'C' Blocks of Survey No.766 was not fixed by this Court on the ground that they are abutting the national highway, but on the ground that they are "nearer to the national highway". The distinction between a land being nearer to the national highway and a land abutting the national highway cannot be obliterated. Indubitably, the land abutting the national highway has its own advantages, having the potential of being put to commercial utility. Merely because the lands originally form part of the same block in Survey No.766, the

same cannot be a guiding factor for the Court to fix fair compensation reflecting the correct market value. The Land Acquisition Officer himself has divided the land into three Blocks and has passed separate awards for Block 'A' and Blocks 'B' and 'C'.

The learned Government Pleader contended that in order to claim higher compensation, the appellants have artificially divided the land into three separate blocks.

It is not the case of the respondent that the Land Acquisition Officer has either made any such observations in the award or he has raised any such plea before the reference Court. On the contrary, the Land Acquisition Officer has himself divided the land into three blocks in order to fix fair and appropriate compensation taking into account the locational advantages and disadvantages which each Block of the land enjoys or suffers. In this view of the matter, it is futile to advance such argument by the learned Government Pleader.

This Court, under Ex.B.6, has fixed the market value at Rs.60,000/- per acre for the land covered by Blocks 'B' and 'C' of Survey No.766. In our opinion, the land covered by Block 'A' of Survey No.766 has a higher market value, as it is abutting the national highway. Therefore, reasonable enhancement over and above the market value fixed in respect of Blocks 'B' and 'C' needs

to be made in respect of Block 'A'. Accordingly, we feel that Rs.1,00,000/- per acre is the appropriate compensation that could be awarded for Block 'A' land.

In the result, the appeal is partly allowed enhancing the compensation to Rs.1,00,000/- per acre with all consequential statutory benefits. The award of the reference Court under appeal accordingly stands modified.

JUSTICE C.V.NAGARJUNA REDDY

Date: 19.04.2018

JUSTICE D.V.S.S.SOMAYAJULU

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