* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

+ <u>L.A.A.S.No.433 of 2009</u>

% 20-06-2018

BETWEEN:

1. Mulpuri China Ramanaiah, S/o. Ramaiah,
2. Patibandla Narasimha Rao, S/o. Atchaiah
3. Kommineni Suseela, W/o. Punna Rao,
4. Kommineni Ramachandra Rao, S/o. Venkatappaiah
5. Kommineni Venkateswarlu, S/o. Nagaiah
6. Kommineni Nageswara Rao, S/o. Nagaiah
(All are cultivators, R/o. Ravela (V), Tadikonda (Mandal) Guntur District.)

…Appellants/Claimants

Vs.

The Revenue Divisional Officer,
Guntur.

…Respondent/Referring Officer.

! Counsel for the Appellants: Mr. G. Peddababu

^ Counsel for Respondent : G.P. for Appeals (A.P)

< Gist:

> Head Note:

? Cases referred:

1. (2011) 6 SCC 47
2. (2012) 5 SCC 432

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
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JUDGMENT: (per VRS, J.)

Not satisfied with the enhancement of compensation granted by the reference Court from Rs.30,000/- per acre to Rs.36,000/- per acre, the claimants have come up with the above appeal.

2. Heard Mr. G. Peddababu, learned counsel for the appellants and the learned Government Pleader for Appeals (A.P.).

3. By a notification dated 30.12.1993 issued under Section 4(1) of the Land Acquisition Act, 1894, the land of the extent of Ac.8.32 cents in Sy.Nos.64/2B, 72/3, 72/3A, 178/2 and 178/2A of Ravela Village, Tadikonda Mandal, Guntur District were sought to be acquired for the purpose of providing house sites to the persons belonging to the Backward Classes and the Scheduled Casts. The Land Acquisition Officer passed an Award bearing No.3/1999-95, dated 18.10.1994, fixing the market value at Rs.30,000/- per acre.

4. The land owners sought a reference and the reference under Section 18 was taken up as LAOP No.166 of 1996, on the file of the I Additional Senior Civil Judge, Guntur.

5. The claimants examined 12 witnesses on their side and they marked 20 exhibits. The Senior Assistant working in the office of the Land Acquisition Officer was examined as RW.1 and the copy of the Award was marked as Ex.B.1.

6. The Reference Court confirmed the data sale deed taken by the Land Acquisition Officer as an ideal indicia, but decided to add 30% towards escalation and 20% towards locational advantage, thereby

arriving at the rate of Rs.36,000/- per acre. The claimants actually wanted the market value to be fixed at Rs.2,00,000/- per acre, but the same was negatived by the Reference Court. Therefore, the claimants are on appeal.

7. It is seen from the Award that the Land Acquisition Officer took note of 14 sale transactions that had taken place during the period of three years immediately preceding the date of publication of the notification. Out of those 14 sale transactions, four transactions listed at item Nos.1, 3, 7 and 8 were rejected by the Land Acquisition Officer on the ground that they relate to the sale of small extents of land as house sites. It is relevant to note that under these sale deeds at Sl.Nos.1, 3, 7 and 8 the market value was taken to be Rs.1,10,000/- to Rs.1,20,000/- per acre.

8. The Land Acquisition Officer rejected the sale transactions at Sl.Nos.2, 4, 5, 9, 10, 11, 12, 13 and 14 on the ground that they related to lands located at far away places.

9. The Land Acquisition Officer was then left with only one transaction at Sl.No.6. This transaction had taken place on 04.05.1992. Under this sale deed, a land of an extent of Ac.1.56 in S.No.176 was sold for Rs.37,500/- at the rate of Rs.24,000/- per acre. Therefore, after providing for appreciation for the interregnum period, the Land Acquisition Officer fixed the compensation at Rs.30,000 per acre.

10. Before the Reference Court, the claimant Nos.2, 3, 4 and 5 were examined respectively as PWs.5, 2, 1 and 4. The rest of the witnesses were examined to prove the sale deeds marked on the side of the claimants.

11. Out of the 20 sale deeds marked by the claimants before the Reference Court as exhibits, Exs.A.1, A.2, A.3, A.6, A.7, A.8, A.9, A.10,

A.11, A.18, A.19 and A.20 relate to the lands in Sy.No.235. The lands acquired were in Sy.Nos.64, 72 and 178. The Village map or survey sketch was not filed to show the distance between Sy.Nos.64, 72 and 178 on the one hand and Sy.Nos235 on the other hand. Therefore, these sale deeds in respect of the lands in Sy.No.235 could not have been relied upon by the Reference Court. The Reference Court rightly did not rely upon these sale deeds.

12. Similarly, Ex.A.12 was actually an exchange deed whereunder 3/4 cent of land in Sy.No.64/2 was exchanged with one cent in Sy.No.236/3. Therefore, it was unsafe to rely upon this exchange deed also.

13. Ex.A.14 was a gift deed relating to the land in Sy.No.236/1. Therefore, the logic applied to the land in Sy.No.235 equally applies to this land.

14. That leaves us only with six sale deeds marked as Exs.A.4, A.5, A.13, A.15, A.16 and A.17. For the purpose of easy appreciation, the particulars that could be culled out from these exhibits are presented in a tabular column as follows:

Exhibit	Date of sale	Extent sold	Survey No.	Rate reflected In Rs. Per acre
A.4	29.07.1991	291 sq. yds	179	1,03,120/-
A.5	02.07.1990	532.40 sq.yds	179	1,00,977/-
A.13	12.09.1985	480 sq. yds	72 & 178	50,416/-
A.15	06.07.1984	36 ½ cents	179/1, 235-B & 178	54,000/-
A.16	18.05.1984	145 sq. yds	64	50,068/-
A.17	14.03.1984	10 cents	179A/1	50,000/-

15. On the basis of the above sale deeds, it is contended by the learned counsel for the appellants that the Reference Court ought to have fixed the market value at least at Rs.1,00,000/- per acre and that the Reference Court miserably failed to consider any of these sale deeds.

16. However the learned Government Pleader for Appeals (A.P) contended that the sale transactions reflected in Exs.A.4, A.5, A.13, A.15, A.16 and A.17 related to lands of very small extents, sold as house sites and that therefore, the value for which they were sold cannot be taken as an indicator. In the case on hand, the land acquired was of the extent of Ac.8.32 and hence the learned Government Pleader contended that the Land Acquisition Officer as well as the Reference Court rightly rejected the sale deeds under the aforesaid exhibits.

17. We have carefully considered the above submissions.

18. It is true that under Exs.A.4, A.5, A.13 and A.16 the land of the extent of 291 sq. yds, 532.40 sq.yds, 480 sq. yds and 145 sq. yds were sold respectively. But under Exs.A.15 and A.17, 36 ½ cents and 10 cents were sold respectively. Interestingly Exs.A.15 and A.17 were dated 06.07.1984 and 14.03.1984. The notification under Section 4(1) was issued long after these sale deeds. The notification was issued only on 30.12.1993.

19. The acquired lands were in Sy.Nos.64, 72 and 178. The lands covered by Exs.A.15 and A.17 were in Sy.Nos.179, 235 and 178.

20. Therefore, even if Exs.A.4, A.5, A.13 and A.16 are discarded, on the ground that they related to the sale of small extents of land, it is not possible to discard Exs.A.15 and A.17.

21. In any case, the sale transactions relating to small extents of land are not always to be treated as live wires, to avoid contact with. In

such cases, it is permissible for the Court to take the market value indicated by those sale transactions and to make a deduction towards development cost. This principle assumes significance, all the more in cases where people had already started selling smaller extents of land as house sites in the very same locality and even the purpose of acquisition was to provide house sites. It can be seen from all the exhibits filed by the claimants that in the very same survey numbers where the acquired lands are located, people had started selling smaller extents of land as house sites at least 9 years before the acquisition. For instance, Ex.A.13 is a sale deed dated 12.09.1985, wherein the lands in Sy.Nos.72 and 178 measuring an extent of 480 sq. yds was sold at the rate of Rs.50,416/- per acre. These two survey numbers, viz., 72 and 178 are the very same survey numbers from which the lands in question were acquired. Similarly, what was sold under Ex.A.16 dated 18.05.1984 was the land of an extent of 145 sq. yds in Sy.No.64 itself (where the acquired land was located). The sale was at the rate of Rs.50,068/- per acre. This is an indication that at least 9 years before the date of issue of the notification under Section 4(1), people had started selling smaller extents for house sites. It is only after realising the potentiality of the land to be developed into house sites, that the Government also acquired these lands only for the purpose of providing house sites to the members of the Backward Classes and Scheduled Casts.

22. In Trishalal Jain v. State of Uttaranchal[1], the Supreme Court held that the value indicated in sale deeds relating to small pieces of lands can also be taken into consideration. But the Supreme Court added that a reasonable deduction may have to be made keeping in view the

[1] (2011) 6 SCC 47

other attendant circumstances. This decision in *Trishalal Jain* was also followed in Mehrawal Khewaji Trust v. State of Punjab[2].

23. Therefore, we are of the considered view that at least Exs.A.15 and A.17 were not capable of being discarded. As a matter of fact, Exs.A.13, A.15, A.16 and A.17 were all of the years 1984 and 85 when the acquisition was not even contemplated. In all these four transactions, a rate of Rs.50,000/- pr acre has been adopted uniformly. After a period of five to six years, the rate has doubled to Rs.1,00,000/- per acre as seen from Exx.A.4 and A.5, which are of the years 1991 and 1990 respectively.

24. Therefore, we are of the considered view that the Reference Court ought to have adopted at least a rate of Rs.50,000/- per acre as the appropriate market value in the year 1984. If an increase is taken at the rate of 10% per year up to the date of issue of Section 4(1) notification in December, 1993, the market rate as on the date of Section 4(1) notification would come to Rs.95,000/- per acre. Even if we allow 25% towards development charges, we may, at the most deduct Rs.25,000/- per acre (we have taken the higher figure). This will result in the market value being arrived at Rs.70,000/- per acre (Rs.95,000 – Rs.25,000).

25. But on the question as to how much should be deducted towards development charges, the Court have to take into account several factors. The development charges to be deducted may range from 20% to even 50% in some cases. But the percentage would depend primarily upon the potentiality of the land and the development that had already taken place. In this case, we feel it appropriate to allow 25% towards development charges, in the light of the fact that the land was already

[2] (2012) 5 SCC 432

getting developed as house sites and the purpose of acquisition was to provide house sites to the weaker sections of the society.

26. In fine, we are of the considered view that the Land Acquisition Officer and the Reference Court ought to have fixed the compensation at Rs.70,000/- per acre. Accordingly we allow the appeal and modify the judgment and decree of the Reference Court and fix the compensation payable at Rs.70,000/- per acre. The claimants will be entitled to interest, solatium etc., as per the provisions of the Act. There will be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

V.RAMASUBRAMANIAN, J.

N.BALAYOGI, J.

20th June, 2018.
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