

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 N. BALAYOGI

+ L.A.APPEAL SUIT Nos.472, 473, 427 and 428 OF 2008

%Date: 19.06.2018

Between:
L.A.A.S.No.472 of 2008:

The Special Deputy Collector/ Land Acquisition Officer,
Unit -IV, Somasila Project, Rajampet, Kadapa District.

...Petitioner

Vs.

Chalamala Narasamma, Rep.by her GPA Holder Chelamala Venkata Reddy,
R/ o.Rajampet, Kadapa District and others.

.. Respondents

L.A.A.S.No.473 of 2008:

The Special Deputy Collector/ Land Acquisition Officer,
Unit -IV, Somasila Project, Rajampet, Kadapa District.

...Petitioner

Vs.

Chalamala Narasamma, Rep.by her GPA Holder Chelamala Venkata Reddy,
R/ o.Rajampet, Kadapa District and others.

.. Respondents

L.A.A.S.No.427 of 2008:

Chelamala Venkata Reddy S/ o.Narasa Reddy,
R/ o.ABNR colony, R.S.Road, Rajampet, Kadapa District and others.

...Petitioners

Vs.

The Special Deputy Collector/ Land Acquisition Officer,
Unit -IV, Somasila Project, Rajampet, Kadapa District.

.. Respondents

L.A.A.S.No.428 of 2008:

Chelamala Narasamma, Rep.by her GPA Holder Chelamala Venkata Reddy,
R/ o.ABNR colony, R.S.Road, Rajampet, Kadapa District and others.

...Petitioners

Vs.

The Special Deputy Collector/ Land Acquisition Officer,
Unit -IV, Somasila Project, Rajampet, Kadapa District.

.. Respondent

! For Petitioners : Government Pleader for Appeals and
Mr.D.Kodanda Rami Reddy.

^ For Respondents : Mr.A.Sudarshan Reddy, Mr.D.Kodanda Rami
Reddy and Government Pleader for Appeals

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> Head Note :

? Cases Referred :

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON' BLE SRI JUSTICE N. BALAYOGI

L.A.APPEAL SUIT Nos.472, 473, 427 and 428 OF 2008

COMMON JUDGMENT: (per V. Ramasubramanian, J)

As against two awards passed by the Reference Court in LAOP Nos.280 and 282 of 2000, the claimants have come up with two appeals and the Land Acquisition Officer has come up with two appeals.

2. Heard Mr.D.Kodanda Rami Reddy, learned counsel for the appellants and the learned Government Pleader for Appeals for the respondents in AS Nos.427 and 428 of 2008, and the learned Government Pleader for Appeals for the appellants and Mr.A.Sudarshan Redd, learned Senior Counsel and Mr.D.Kodanda Rami Reddy, learned counsel for the respondents in AS Nos.472 and 473 of 2008.

3. By a notification issued under Section 4 (1) of the Land Acquisition Act, 1894, and published in the Government Gazette on 14.10.1995, the Government sought to acquire the lands, superstructures and the trees located in the lands, in certain Survey numbers of Kondapur Village, Nandalur Mandal, Kadapa District. The Land Acquisition Officer passed awards in Award Nos.3 and 5 of 1998-99 on 30.10.1998. The Land Acquisition Officer fixed the compensation at Rs.14,500/- for category-II B lands, at Rs.8,000/- for category-IV lands and at Rs.5000/- for category-V lands. The Land Acquisition Officer also granted compensation for the trees, based upon the valuation report given by the Horticultural Officer.

4. Not satisfied with the compensation awarded by the Land Acquisition Officer, the land owners sought reference under Section 18 of the Act. The references were taken on file as LAOP Nos.280 and 282

of 2000. Before the reference Court, the claimants examined six persons as witnesses. The Referring Officer was examined as RW.1. About 50 documents were marked as exhibits in LAOP No.282 of 2000 and 34 documents were marked as exhibits in LAOP No.280 of 2000. The Land Acquisition Officer filed the copies of the Award Nos.3 and 5 of 1998-99 as Exs.B1 respectively, in both the OPs.

5. On the basis of the evidence on record, the reference Court enhanced the compensation for the lands to Rs.70,000/- per acre, irrespective of the category to which the land belonged. The Reference Court also granted compensation @ Rs.4,000/- per Sweet Orange tree, Rs.4,000/- per Coconut tree, Rs.3,000/- per Margosa tree, Rs.2,000/- per Munaga tree and Rs.3,000/- per Pegi tree in LAOP No.280 of 2000. The Reference Court arrived at the market value of the motor shed, godown with bore etc., at Rs.12,50,000/- and Rs.3,74,000/- in LAOP No.280 of 2000. Similarly, the Reference Court fixed the value of the superstructure at Rs.17,83,000/-, Rs.8,26,500/-, Rs.8,60,000/- and Rs.8,37,000/- for different superstructures in LAOP No.282 of 2000. The compound wall, shed etc., were also separately valued.

6. Challenging the enhancement so granted by the Reference Court, the Land Acquisition Officer has come up with two appeals in LAAS Nos.472 and 473 of 2008. Not satisfied with the enhancement granted, the claimants have come up with two appeals in AS Nos.427 and 428 of 2008.

7. The disputes raised in these appeals could be categorized under three different heads, namely, (1) the one relating to the valuation of the land, (2) the one relating to the valuation of the trees and (3) the one relating to the valuation of the superstructures.

i. Valuation of Land:

Insofar as the valuation of the land is concerned, the Reference Court fixed the compensation at Rs.70,000/- per acre on the basis of judgment and decree in LAOP No.932 of 2001, dated 05.08.2002. The judgment and decree in LAOP No.932 of 2001 were marked as Exs.A-33 and A-34 in LAOP No.280 of 2008 and they were marked as Exs.A-49 and A-50 in LAOP No.282 of 2000. It is not the case of the Land Acquisition Officer before this Court or even before the Reference Court that the judgment and decree in LAOP No.932 of 2001 was set aside or modified by any Court. Therefore, it is not possible to interfere with the enhancement of compensation granted by the Reference Court for the land.

ii. Valuation of Trees:

Insofar as the valuation of trees is concerned, the Reference Court fixed Rs.4,000/- per tree for Sweet Orange trees, Rs.4,000/- per tree for coconut trees, Rs.3,000/- per tree for Margosa trees, Rs.2,000/- per tree for Munaga trees, and Rs.3,000/- per tree for Pegi tree. Such fixation was actually based upon the Government guidelines issued in the form of a memo dated 20.09.1986, filed as Ex.A-12 in LAOP No.280 of 2000. The claimants also relied upon the judgment of the Sub-Court, Rajampet in LAOP No.1549 of 1988 dated 16.01.1993 filed as Ex.A-25 in LAOP No.280 of 2000. The Memo dated 20.09.1986, fixing the guidelines for the valuation of the trees was also filed as Ex.A-46 in LAOP No.282 of 2000. Therefore, we find that the fixation of valuation for trees by the Reference Court was in tune with the very guidelines issued by the Government and there is no rhyme or reason to interfere with the same.

iii. Valuation of the Superstructures:

Insofar as the superstructures are concerned, an Engineer by name, S.A.Rahiman, was examined as PW.4 in both the OPs. He prepared Exs.A-19, A-20, A-31 and A-32 in LAOP No.280 of 2000 and also filed Exs.A-32 to 38 and A-48 in LAOP No.282 of 2000. Going by the evidence tendered by PW.4 and the estimates prepared by him, the Reference Court arrived at the value of the superstructures. Neither the extent of the superstructures was denied nor the method adopted by the Engineer for valuation, was proved to be irrational by the Land Acquisition Officer. Therefore, even on the valuation of the superstructures, we do not find anything wrong with the approach adopted by the Reference Court.

8. The only mistake committed by the Reference Court was that in the last paragraph of the Awards in both the cases, the Reference Court has said that the claimants are entitled to 62% enhancement of the compensation as assessed by PW-4. Interestingly, in two previous paragraphs, the Reference Court held that the land acquisition officer was liable to pay compensation @ 80% of the value fixed by PW.4. For the purpose of appreciating this contradiction in terms, we shall extract the relevant portions of the judgment in LAOP No.282 of 2000.

9. The last line of paragraph-19 of the judgment in LAOP No.282 of 2000 reads as follows:

“Hence, I fix the market value of missing structures at 80% of the value fixed by the P.W.4 under Exs.a-32 to 36, 38 and accordingly, I directed the L.A.O. to pay the compensation at the rate of 80% of the value fixed by P.W.4 as mentioned in Exs.A.32 to 38. Hence, I answered the points No.1 to 3 accordingly.”

10. The last portion of paragraph-20 of the judgment in LAOP No.282 of 2000 reads as follows:

"I accordingly direct the land acquisition officer to pay the compensation at the rate of 80% of the value fixed by the P.W.1 and PW.3 under the exhibits referred above and as detailed in the above structures are entitled for compensation at the market value specified therein for their structures which hitherto was not paid by the L.A.O. Hence, the point No.4 is answered accordingly in favour of the claimants. "

11. The last portion of the last paragraph of the judgment in LAOP No.282 of 2000 reads as follows:

"So I deem it fit that the claimants are entitled for compensation as stated above with 62% enhancement of compensation assessed by PW.4 further the claimants are entitled 12% Additional market value from the date of notification to the date of award and 30% solatium on the market value and interest at 9%p.a. from the date of award and there are at 15% on the enhanced compensation amount granted till payment. The advocate fee is fixed at Rs.500/-."

12. It is seen from the above that after holding that the estimates prepared by PW.4 are higher and that the claimants will be entitled only to 80% of the value fixed by the PW.4, suddenly the Court directed 62% of enhancement of compensation from what was assessed by PW.4. This has led to a contradiction between the findings recorded in paragraphs 19 and 20 and the conclusion reached in the last paragraph. Therefore, this portion needs to be set right.

13. In view of the above, all the appeals are disposed of to the following effect:

- i) The judgment and decree of the Reference Court in LAOP Nos.280 and 282 of 2000 are confirmed insofar as the fixation of market value of the Land and fixation of market value of the trees are concerned.
- ii) The judgment and decree of the Reference Court in LAOP Nos.280 and 282 of 2000 in respect of superstructures is modified, making it clear that the value of the

superstructures will be fixed at 80% of the amount assessed by PW.4.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

N. BALAYOGI, J

June 19, 2018
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