

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

L.A.A.S.Nos.75 and 76 of 2018

25.04.2018

Between:

The Special Deputy Collector, Land Acquisition,
APIIC, SEZ, Unit-I, Visakhapatnam

..Appellant

and

Tippala Vamsi Reddy and another

..Respondents

Counsel for the appellant: Government Pleader for Appeals (A.P.)

Counsel for the respondents: --

The Court made the following:



COMMON JUDGMENT:(Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

These appeals arise out of separate but identical orders passed by learned XIII Additional District Judge, Gajuwaka, Visakhapatnam District.

2. We have heard the learned Government Pleader for Appeals (A.P.) appearing for the appellant and perused the record.

3. An extent of Acs.40.30 cents of lands in survey Nos. 260-1 to 16, 261-1 to 9, 264-1 to 5, 265-1 to 16, 267-1 to 17 and 268-1 to 21 etc., were acquired for the purpose of development of Gangavaram port backup area. The draft notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was approved on 25.02.2003 and was published in the District Gazette on 06.03.2003. The draft declaration was approved on 14.07.2003 and was published in the District Gazette on 17.07.2003. By his award, dated 30.07.2005, the appellant fixed the market value of the acquired lands at Rs.4,50,769/- per acre. Feeling dissatisfied with the market value fixed by the appellant, the respondents/claimants sought for reference of their disputes to the competent civil Court. The disputes were, accordingly, referred to the reference Court and the matters were registered as L.A.O.P.No.552 and 553 of 2008. Based on Exs.C-1 and C-2, the respondents/claimants claimed compensation at the rate of Rs.600/- per sq. yard. On consideration of the oral and

documentary evidence, the reference Court has, however, made a highly conservative approach in enhancing the compensation to only Rs.6,00,000/- per acre in addition to the statutory benefits payable to the respondents under the Act. Feeling aggrieved by the order of the reference Court, the State through the appellant has filed these appeals.

4. Before the reference Court, the appellant has raised a serious objection regarding the limitation for reference of the disputes under Section 18 of the Act. By giving detailed reasons, the reference Court has rejected the said objection. On a consideration of the reasoning of the reference Court, we are entirely in agreement with the view taken by it. Though the award was passed on 30.07.2005, admittedly, the respondents received notices under Section 12(2) of the Act on 26.12.2005. Under Section 18(2) of the Act, any person interested, who has not accepted the award, may seek reference of the dispute to the Court by written application within six weeks from the date of the Collector's award if he was present or represented before the Collector at the time when the award was passed and in other cases within two months of receipt of the notice from the Collector under Section 12(2) of the Act or within six months from the date of Collector's award, whichever period shall first expire. It is not the pleaded case of the appellant that the respondents were present at the time when the award was

made or that a copy of the award was delivered to them before notice under Section 12(2) of the Act was issued.

5. In the **State of Punjab vs. Mst. Qaisar Jehan Begum**¹, the Supreme Court held that the period of six months under Section 18(2) of the Act will run from the date of knowledge of the award, that the knowledge does not mean mere knowledge of the fact that the award was made, that the knowledge must relate to the essential contents of the award and that if the award is communicated to a party under Section 12(2) of the Act, the party must be obviously having the knowledge of the contents of the award. In **Mahammad Hasnuddin vs. State of Maharashtra**², the Supreme Court held that the conditions laid down under Section 18 of the Act are matters of substance and that their observation is a condition precedent to the Collector's power of the reference.

6. Based on the aforementioned decisions and having regard to the admitted fact that notice under Section 12(2) of the Act was served on the respondents only on 26.12.2005 and the further fact that within two months from the date of service of such notice, the respondents sought the reference under Section 18 of the Act,

¹ AIR 1963 SC 1604

² AIR 1979 SC 404

the reference Court has rightly held that the reference of the disputes is not barred by limitation.

7. As regards the fixation of the compensation, though the respondents/claimants have relied upon Exs.C-1 and C-2 registered sale deeds, dated 07.12.2001 and 10.07.2002, the same were discarded by the reference Court on the ground that the extents covered by both the said sale deeds were very small admeasuring 48 sq. yds. each. Relying upon the judgment of the Supreme Court in **General Manager, Oil and Natural Gas Corporation Ltd., vs. Rameshbhai Jivanbhai Patel**³, the reference Court has applied the following tests for determination of the market value *viz.*, (i) situation of the land, (ii) nature of development in surrounding area, (iii) availability of land for development in the area, and (iv) the demand for land in the area. The reference Court has taken note of the entries in the adangals relating to the acquired lands which described the same as house site plots though the same were not converted into house site plots as such. Upon considering the potentialities of the acquired lands for being used as house site plots as well as for industrial purposes, (indeed the same were acquired for the purpose of development of Gangavaram port backup area) the reference Court has fixed the market value of the acquired lands at Rs.6,00,000/- per acre, which, in our opinion, is highly

³ (2008) 14 SCC 745

reasonable. The reference Court has made a very cautious and pragmatic approach in restricting the enhancement to a very reasonable limit, in spite of there being scope for fixing a higher compensation having regard to the fact that the acquired lands are situated on the periphery of Visakhapatnam Municipal Corporation.

8. In the aforementioned facts and circumstances of the case, we do not find any reason to interfere with the orders of the reference Court.

9. These appeals are, accordingly, dismissed. This judgment, however, is without prejudice to the right of the respondents to file appeals if they feel dissatisfied with the quantum of compensation awarded by the reference Court.

10. As a sequel to dismissal of these appeals, respective I.A.No.1 of 2018 filed by the appellant in these appeals for interim reliefs stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

D.V.S.S.SOMAYAJULU, J

25th April, 2018
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