

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL Nos.1013 & 1149 OF 2018

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard the learned Government Pleader for Land Acquisition and Mr.D.Prakash Reddy, learned Senior Counsel.

2. The instant appeals are the instance of respondents in W.P.No.40989 of 2017. They are filed challenging the fixation of compensation payable for the lands acquired. The parties are referred to as arrayed in the writ petition.

3. The petitioners are small farmers and were in possession and enjoyment of agricultural land in an extent of Acs. 42-18 Gts in Sy.No.18 of Raviryal Village, Maheshwaram Mandal, Ranga Reddy District. The respondents acquired the land or dispossessed the petitioners without paying compensation in accordance with law. A few earlier rounds of litigation referred to are not disputed and for the present, we are informed that the proceedings dated 06.04.2017 of the Revenue Divisional Officer, Kandukur Division, Ranga Reddy District were issued pursuant to the orders of this Court in W.A.Nos.1353 & 959 of 2016. The 4th respondent through proceedings dated 06.04.2017 determined the compensation as payable to the writ petitioners at Rs.15,45,000/-. The learned Single Judge through the order under appeal determined the compensation as payable at Rs.30,25,000/- and also directed disciplinary action against the 4th respondent

since the 4th respondent willfully disobeyed the directions issued by this Court in W.A.Nos.1353 & 959 of 2016 dated 15.12.2016.

4. Having regard to the limited submissions made by the learned counsel appearing on both sides, we find it convenient to excerpt the operative portion of the order under appeal:

“Also for the abnormal delay in assessing the correct market value for all these years, I hold that the petitioners are also entitled to interest @ 8% p.a on the difference between the amount which they were already paid and the amount now directed to be paid in this order, till such payment is made from the date of resumption.

Accordingly, the Writ Petition is allowed with costs of Rs.20,000/- to be paid by the 1st respondent within 4 weeks and which is to be recovered from A.Narasimha Reddy, Revenue Divisional Officer, Kandukur Division (the 4th respondent) who passed the impugned order; the proceedings No.D/727/2011 dt.06.04.2017 of the 4th respondent are set aside; the respondents are directed to pay to the petitioners compensation for deprivation of their lands in Survey No.18 of Raviryal Village @ Rs.30,25,000/- with 30% solatium and interest @ 8% p.a on the difference between the amount which they were already paid and the amount now directed to be paid in this order, till such payment is made from the date of resumption within eight (08) weeks from today; the Registry shall issue a show-cause notice to the 4th respondent to show-cause why proceedings for Contempt of Court shall not be initiated against him for prima facie deliberate and willful disobedience of the order dt.15.12.2016 in W.A.Nos.1353 and 959 of 2016. Disciplinary action shall also be initiated against A.Narasimha Reddy, Revenue Divisional Officer, Kandukur Division (the 4th respondent) by the 1st respondent for passing the impugned order in gross violation of the above order of the Division Bench in W.A.No.1353 and 959 of 2016 and ignoring all the basic principles to be applied in determining the market value of the properties of the petitioners as on 05.09.2009”.

5. The learned Government Pleader contends that the basis for arriving at Rs.30,25,000/- with 30% solatium and interest at 8% per annum etc., as compensation, is untenable and according to him, even going by the sale transactions which are adverted to in the order under appeal, the compensation determined is substantially

on the higher side and prays for re-determining the compensation. The learned Government Pleader, though has raised a ground on the compensation fixed by the order under appeal, to attract the jurisdiction of this Court under Clause 15 of Letters Patent, could not point out an error which goes to the root of consideration and thereby warrants interference by us in these appeals. He, however, contends that the sale deeds relied on by the learned Single Judge are at a distance ranging between 1.4 kms to 2 kms from Sy.No.18 and sufficient deduction ought to have been provided by the learned Single Judge while practically assessing the compensation payable to the writ petitioners. He further contends that direction to initiate disciplinary action is not warranted.

6. *Per contra*, Mr. Prakash Reddy placed heavy reliance on the observations of this Court in W.A.Nos.1353 & 959 of 2016 and contends that the writ petitioners/small farmers were denied their livelihood about 10-13 years back and the writ petitioners are still unable to get the fruits of compensation on account of lopsided approach exhibited by the respondents. He further contends that paying compensation at Rs.30,25,000/- is on the lower side, for the respondents, in the same area for private patta lands, have paid more compensation and that no ground is made out for interference in our jurisdiction under Clause 15 of the Letters Patent.

7. The case on hand has long and chequered history. This Court on more than one occasion, including through the order under appeal declared and decided the entitlement of writ petitioners for compensation for acquiring small extents of land in Sy.No.18. The case on hand though does not come under the Land

Acquisition Act, 1894 and/or the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 direction was issued to the 4th respondent to determine the compensation payable to the erstwhile land owners. Therefore, the exercise the 4th respondent undertakes is determination of compensation payable to writ petitioners for acquiring the land in Sy.No.18. It is well settled that in determination and fixation of compensation under the Land Acquisition Act, the Courts exercise guarded discretion on well established principles of law and in the process takes note of a few practical advantages and disadvantages in the area in which the land is acquired by authorities. The discretion exercised is not speculative or imaginary, but according to law and facts of the case. There may not be a mathematical application on addition or deduction to fair market value evidenced in the sales of land in neighbourhood. Now, the challenge is that the compensation determined by the learned Single Judge at Rs.30,25,000/- is illegal and unsustainable.

8. Firstly, we are of the view that the order of 4th respondent, as rightly held by the learned Single Judge, is not in conformity with the order of this Court in W.A.Nos.1353 & 959 of 2016. Since the issue of determination of compensation is again presented for consideration by the parties in W.P.No.40989 of 2017, the learned Single Judge without deviating from the well established parameters has broadly considered all relevant circumstances. However, when the distance of the comparable sale deed is brought to his notice, the same ought to have been appreciated and necessary deduction ought to have been applied while

determining the compensation payable to subject land. Upon deliberation with the counsel, during the course of hearing, we are of the view that by accepting the very sale deeds which are adverted to in the proceedings dated 06.04.2017, the compensation per acre would meet the ends of justice in the facts and circumstances of the case, if the compensation is fixed at Rs.27,00,000/- per acre.

9. The writ appeals are ordered to the above extent and consequently the operative portion of the order under reads as follows:

“Accordingly, the Writ Petition is allowed with costs of Rs.20,000/- to be paid by the 1st respondent within 4 weeks and which is to be recovered from A.Narasimha Reddy, Revenue Divisional Officer, Kandukur Division (the 4th respondent) who passed the impugned order; the proceedings No.D/727/2011 dt.06.04.2017 of the 4th respondent are set aside; the respondents are directed to pay to the petitioners compensation for deprivation of their lands in Survey No.18 of Raviryal Village @ **Rs.27,00,000/-** with 30% solatium and interest @ 8% p.a on the difference between the amount which they were already paid and the amount now directed to be paid in this order, till such payment is made from the date of resumption within eight (08) weeks from today”.

The direction to initiate disciplinary proceedings though is warranted, it would have been for the competent authority to decide whether there is disobedience or not of lawful directions issued by a Court of law. However, having regard to the persuasive submissions made by the learned Government Pleader, the said direction to conduct disciplinary enquiry is set aside. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending,
stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

05th November, 2018

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