

**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 MS.JUSTICE J. UMA DEVI**

L.A.A.S. Nos.522, 523 of 2012 and 269 and 277 of 2014

Date:27.08.2018

LAAS No.522 of 2012:

Between:

M.Mohammad Sharif Saheb S/o.Abdul Rahim Saheb,
R/o.Bharpet, Adoni Post, Kurnool District. ... Appellant

v.

The Revenue Divisional Officer-cum-Land Acquisition Officer,
Adoni post, Kurnool District. ... Respondents

LAAS No.523 of 2012:

Between:

Smt.M.Mumtaz Begum W/o. M.Mohammad Sharif Saheb S/o.Abdul Rahim
Saheb, R/o.Bharpet, Adoni Post, Kurnool District. ... Appellant

v.

The Revenue Divisional Officer-cum-Land Acquisition Officer,
Adoni post, Kurnool District. ... Respondent

LAAS No.277 of 2014:

Between:

The Revenue Divisional Officer-cum-Land Acquisition Officer,
Adoni post, Kurnool District. ... Appellant

v.

Smt.M.Mumtaz Begum W/o. M.Mohammad Sharif Saheb S/o.Abdul Rahim
Saheb, R/o.Bharpet, Adoni Post, Kurnool District. ... Respondents

LAAS No.269 of 2014:

Between:

The Revenue Divisional Officer-cum-Land Acquisition Officer,
Adoni post, Kurnool District. ... Appellant

v.

M.Mohammad Sharif Saheb S/o.Abdul Rahim Saheb,
R/o.Bharpet, Adoni Post, Kurnool District. ... Respondents

For Appellants : M/s.K. Somakonda Reddy and G.P. for Appeals

For Respondents : G.P.for Appeals and M/s.K. Somakonda Reddy

Gist :

Head Note :

Cases Referred :

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

L.A.A.S. Nos.522, 523 of 2012, 269 and 277 of 2014

COMMON JUDGMENT:

These appeals, filed under Section 54 of the Land Acquisition Act, 1894, arise out of an award passed by the Reference Court under Section 18 of the Act in two references, one at the instance of the husband and another at the instance of the wife. Out of four appeals, two are by the claimants seeking further enhancement and other two are by the State opposing the enhancement granted by the Reference Court.

2. Heard Mr.K. Somakonda Reddy, learned counsel appearing for the claimants and the learned Government Pleader for Appeals (AP) for the State.

3. The land of an extent of Ac.1.94 cents in Sy.No.62/B2 belonging to the husband and the land of an extent of Acs.1.18 cents in Sy.No.192/2 belonging to the wife, in Parvathapuram village, Kurnool District was sought to be acquired for the formation of a bye-pass road. A notification under Section 4 (1) of the Act was issued on 16.10.2007 and possession was taken on 11.08.2008. The Land Acquisition Officer fixed the market value of the land in Sy.No.62/B2 at Rs.1,45,000/- per acre and fixed the market value of the land in Sy.No.192/2 at Rs.1,25,000/- per acre. On reference made by the Collector, the Reference Court enhanced the compensation to

Rs.9,00,000/-per acre. Aggrieved with the enhancement, the State has come up with two appeals in LAAS Nos.269 and 277 of 2014. Contending that the enhancement should have been to Rs.20.00 lakhs per acre, the claimants have come up with the other two appeals.

4. The Land Acquisition Officer found that there were 40 sale transactions during the period from 16.10.2004 to 15.10.2007, in the three years immediately preceding the date of notification under Section 4(1) of the Act. The Land Acquisition Officer noted that the lands were classified as dry lands and black cotton soils. There were no trees, no standing crops, no bore-wells and no permanent structures in the land. The Land Acquisition Officer also noted that the lands are located at a distance of three kilometres with 30 meters width. But, depending upon the proximity to the developed area, the lands were classified as A, B and C categories. The land in Sy.No.62/B2 was categorized as A. About seven sale transactions were noted to have taken place within the vicinity of Sy.No.62/B2. Out of them, the sale at Serial No.9 of the data sales was of the land in Sy.No.138/B, sold for a sum of Rs.5,85,000/-. The total extent sold was Ac.1.17 cents. Therefore, the market value worked out to Rs.5,00,000/- per acre. But, the Land Acquisition Officer discarded the data sale at Serial No.9 on the ground that the sale was a high value sale and far away from the proposed land. After discarding the five other transactions on one pretext or other, the Land Acquisition Officer proceeded to base his conclusion on the basis of the sale at Serial No.17 of the data sale and arrived at the market value as Rs.50,286/- per acre. But, the

Land Acquisition Officer could not proceed on this basis, since another land in Sy.No.46/2 and 40/3 had been acquired on 18.05.2007 at a cost of Rs.2,60,000/- per acre. It was a consent award. Therefore, by taking the average, the Land Acquisition Officer arrived at the market value as Rs.1,45,000/- per acre for the land in Sy. No. 62/B2.

5. A similar exercise was undertaken in respect of the land in Sy.No.192/2 and the market value was fixed at Rs.1,25,000/- per acre.

6. Before the Reference Court, the claimants examined six witnesses. One of the claimants who is the husband was examined as PW-1. A Senior Assistant in the office of the Sub-Registrar, an employee of the Adoni Municipality and a retired village administrative Officer, were also examined. A set of about 13 documents were marked as Exs.A1 to A13 on the side of the claimants.

7. The land acquisition officer was examined as RW-1 and the copy of the award was marked as Ex.B-1. Certain documents such as ration card, house tax receipts etc., were marked as Ex.X-1 to X-5.

8. The Reference Court found that Exs.A6 and A7 form part of the data sale that was taken note of by the land acquisition officer, but the land acquisition officer discarded the same without rhyme or reason. Therefore, the Reference Court proceeded to take the value as indicated in Ex.A-6, as per which the market value worked out to Rs.12,18,100/- per acre. After allowing deductions, at almost 25%, the Reference Court fixed the compensation at Rs.9,00,000/-per acre.

9. The contention of the learned Government Pleader for Appeals (AP) is that though Exs.A6 and A7 were taken notice of by the Land Acquisition Officer, the Land Acquisition Officer had justification for not proceeding on the basis of the market value indicated in these documents. According to the learned Government Pleader, the lands covered by Exs.A6 and A7 were located very near to Adoni town and that this fact dissuaded the Land Acquisition Officer from taking Exs.A6 as the basis. It is contended by the learned Government Pleader that without even finding out the distance between Adoni town and the lands sought to be acquired, the Reference Court proceeded blindly upon the Ex.A-6. Hence, he pleaded that the award of the Reference Court should be set aside.

10. Per contra, it is contended by the Mr. K. Somakonda Reddy, learned counsel for the claimants that even the value indicated in Ex.A-6 was far low. Exs.A1 and A2 are the certificates issued by the concerned Sub-Registrars. In Ex.A1 the Sub-Registrar has indicated the market value of the land in Sy.No.62/B2 as Rs.22,26,400/-, as on 25.08.2008. Similarly, the Sub-Registrar indicated the market value of the land in Sy.No.192/2 at Rs.22,26,400/- on 25.08.2008. Hence, it is contended by the learned counsel for the claimants that even if appropriate deduction is allowed for the value in the year 2007, the market value would not be less than Rs.20,00,000/- per acre.

11. We have carefully considered the above averments.

12. At the outset, we do not think that any reliance can be placed upon Exs.A1 and A2. We do not know the authority by which the Sub-Registrar could provide valuation of the land acquired. There are only two things that a Sub-Registrar is capable of doing. He can either furnish the market value of the property as reflected in the guidelines.. valuation fixed by the Government or he can furnish certified copies of the sale deeds registered at the relevant point of time, for the Land Acquisition Officer or the Reference Court to come to a conclusion about the market value. The practice of issuing a certificate of valuation is not an approved practice. Therefore, we are unable to proceed on the basis of Exs.A1 and A2.

13. But, insofar as Ex.A6 is concerned, the land covered by Ex.A6, is in Sy.No.137 and the land covered by Ex.A7 is in Sy.No.138. The Adoni Town map was filed as Ex.A4. It is seen from the map that the land in Sy.Nos.137 and 138, are in proximity to the land in Sy.Nos.192 and 62/B. As a matter of fact, the lands in Sy.Nos.137 and 62/B abut the main road leading to Madhavaram. Therefore, the Reference Court was right in taking Ex.A.6 as the base. Ex.A7 could have also been taken into account, but for the fact, that the date of Ex.A7 was 20.04.2005, which was two years earlier than the date of notification under Section 4 (1) of the Act.

14. Therefore, we are of the considered view that the Reference Court was right in proceeding on the basis of Ex.A6, under which the market value of the property in a nearby area was indicated at Rs.12,18,100/- per acre.

15. Even for allowing deduction, the Reference Court has given valid reasons in paragraph-13. The lands in question are acquired for the purpose of laying a bye-pass road and not for construction of houses, factories or other purposes. But, the fact remains that the land was little away from the Municipal limits of Adoni Town. Therefore, the Reference Court allowed the deduction of around 25%, which cannot be found fault with.

16. In the light of the above, we are of the considered view that the Award of the Reference Court does not call for any interference either at the instance of the claimants or at the instance of the Land Acquisition Officer.

17. Hence, all the Appeals are dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

August 27, 2018

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