

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

+ L.A.A.S. Nos.228, 230, 231, 232, 233, 234, 235, 236, 237,
248, 249, 250, 251, 252, 256, 257, 258 and 259 of 2013

% Date: 22-10-2018

The Revenue Divisional Officer,
Land Acquisition Officer, Nandyal, Kurnool District
... Appellant/Referring Officer
Vs.

\$ Illuru Rami Reddy and others
... Respondents/Claimants

! Counsel for Appellant: Government Pleader for Appeals
(Andhra Pradesh)

Counsel for Respondents: Mr. P.Vengala Reddy

< Gist:



> Head Note:

? Cases referred:
Nil.

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Common Judgment: (per V.Ramasubramanian, J.)

All these appeals are filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894, questioning the enhancement of compensation granted by the Reference Court.

2. Heard the learned Government Pleader for Appeals (Andhra Pradesh) for the appellant and Mr. P.Vengala Reddy, learned counsel for the respondents.

3. By a Notification dated 16-5-1997 issued under Section 4(1) of the Land Acquisition Act, the land of a total extent of Ac.18-97 cents in various Survey numbers of Tangatur Village, Banaganapalli Mandal, Kurnool District, was acquired for the purpose of construction of summer storage tank. An award was passed in Award No.3/1998-99, dated 04-5-1998, fixing the compensation at Rs.23,700/- per acre. Since the land owners were not satisfied with the quantum of compensation, they sought a reference.

4. The Reference Court, by a judgment dated 11-12-2012, rendered in batches of cases in the references under Section 18, enhanced the compensation to Rs.81,000/- per acre. Aggrieved by the enhancement, the Land Acquisition Officer is before this Court.

5. The Land Acquisition Officer took note of 91 sale transactions that took place in Tangatur Village, during a period of three years immediately preceding the date of Notification under Section 4(1). Out of those 91 sale transactions, the Land Acquisition Officer discarded many, on the ground that they related to sales of small extents. But the Land Acquisition Officer took note of a particular transaction relating to the land in Survey No.284/2, wherein a land of an extent of Ac.0-99 cts., was sold for Rs.23,400/-. Therefore, the rate worked out to Rs.23,636/- per acre and the Land Acquisition Officer fixed the market value at Rs.23,700/- per acre.

6. Before the Reference Court, the land owners examined the claimant in one O.P. as R.W.1. The land owners also examined as R.W.2, a person who purchased the land under a sale deed dated 12-8-1994 marked as Ex.B-1. The claimants filed Ex.B-1 sale deed dated 12-8-1994 in support of their claim for enhancement.

7. The Referring Officer did not examine anyone, but marked the copy of the award as Ex.A-1.

8. On the basis of Ex.B-1 and the assertion made by R.W.2, the Reference Court came to the conclusion that the market value of land in 1994 was Rs.61,000/- per acre and that by applying enhancement for every year at the usual rate, the market value would come to Rs.81,000/- per acre in

the year 1997, when the Notification under Section 4(1) was issued.

9. The grievance of the Referring Officer to the enhancement so granted by the Reference Court is that the land covered by Ex.B-1 is situate in a different village and that therefore the same could not have formed the basis for determining the market value of the land in question. It is contended by the learned Government Pleader that irrespective of the distance involved between two lands, the value of land in one village cannot form the benchmark for the value of land in another village. In fact, the Land Acquisition Officer has taken note of 91 sale transactions that had taken place in a period of three years immediately preceding the date of Notification and none of those transactions reflected such a huge value in Tangatur Village, in which the land acquired is situate. Therefore, it is contended by the learned Government Pleader that the Reference Court committed a grave error in taking Ex.B-1 as the basis.

10. We have carefully considered the above submissions.

11. It is seen from the judgment of the Reference Court that the distance between the land acquired and the land covered by Ex.B-1, was only half a kilometre. It is true that the land acquired was situate in Tangatur Village and the land covered by Ex.B-1 is located in Sankalapuram Village.

12. But unfortunately, the Referring Officer did not go to the witness box. He is the person who is best suited to challenge the claim of the land owners that the land covered by Ex.B-1 is not situate near the land acquired. But he did not choose to go to the witness box.

13. The assertion made by R.W.1 that the distance between the land covered by Ex.B-1 and the land acquired is just half a kilometre, went completely unchallenged. In fact, the Referring Officer could have easily produced the Village Map or Topo Sketch to demolish the contention made by the land owners. Having failed to do so and having failed even to go to the witness box, it is not now open to the Land Acquisition Officer to challenge Ex.B-1 being taken as the benchmark.

14. Ex.B-1 is not a document created for the purpose of the case. It was dated 12-8-1994. The date of Notification under Section 4(1) was 16-5-1997. Therefore, in the absence of any evidence on the side of the Land Acquisition Officer to rebut the presumption created in favour of the claimants that the lands are located within a distance of half a kilometre, we cannot find fault with the judgment of the Reference Court.

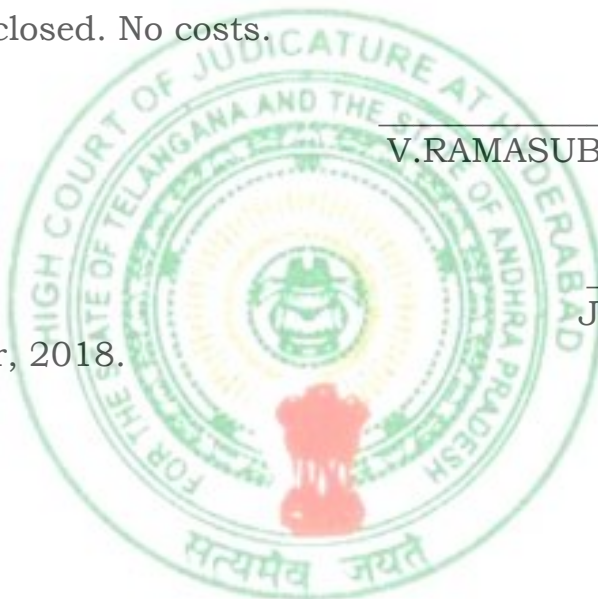
15. If at all we can find fault with the Reference Court, it could be only on one aspect viz., the adoption of increase of 12% per annum, on the value indicated in Ex.B-1. There is no rationale for adopting an increase of 12% per annum.

Normally, an increase of 10% is what could be adopted. The time gap between the date of Ex.B-1 and the date of Notification under Section 4(1), was two years and nine months. Normally, it will be taken to be three years. Therefore, even if we correct the small mistake committed by the Reference Court, we would arrive at the very same figure of Rs.81,000/- per acre. Therefore, we find no justification to interfere with the judgment of the Reference Court. Hence, all the appeals are dismissed. Pending applications, if any, shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

22nd October, 2018.
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