

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

AND

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

LA.A.S.Nos.624, 628, 636, 637, 640 and 641 of 2017

11.04.2018

Between:

The Special Tahsildar (Land Acquisition),
Revenue Division, Visakhapatnam

..Appellant

and

Smt.Zakera Sulthana and others

..Respondents

Counsel for the appellant: Mr.K.A.Narasimham,
Special Government Pleader attached to Advocate General
(A.P.)

Counsel for the respondents in L.A.A.S.Nos.624, 628, 636, 640 and 641
of 2017:

Mr.S.V.S.S.Sivaram

Counsel for the respondent in L.A.A.S.No.637 of 2017: --

The Court made the following:

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

At the interlocutory stage, these appeals are heard and being disposed of with the consent of the learned counsel for both the parties.

2. We have heard the learned Special Government Pleader attached to the learned Advocate General (A.P.) appearing for the appellant and Mr.S.V.S.Sivaram, learned counsel for the respondents in L.A.A.S.Nos.624, 628, 636, 640 and 641 of 2017. Though served, the respondent in L.A.A.S.No.637 of 2017 has not entered appearance.

3. The lands belonging to the respondents/claimants are notified for acquisition for the purpose of construction of reservoir main channel for Isuka Gedda irrigation project. A notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 29.01.2008 and an award was passed on 31.08.2009 by the Land Acquisition Officer fixing the market value of the acquired lands at Rs.80,000/- per acre apart from granting solatium and other statutory benefits. Feeling dissatisfied with the quantum of compensation so fixed by the Land Acquisition Officer, the respondents/claimants got the disputes referred to the Civil Court under Section 18 of the Act. All the L.A.O.Ps. were tried together and common evidence was lead. In support of their case,

the respondents/claimants examined P.Ws.1 to 6 and got Ex.A-1 – registered sale deed, dated 15.04.2006, marked. On behalf of the Referring Officer, the Land Acquisition Officer – R.W.1 was examined and Exs.B-1 and B-2 were marked. The Assistant Director of Horticulture and the Horticulture Officer were examined by the reference Court as Court Witnesses *viz.*, C.Ws. 1 and 2. On appreciation of the oral and documentary evidence, the reference Court has enhanced the compensation from Rs.80,000/- to Rs.2,00,000/- per acre. Feeling aggrieved by this enhancement, the Land Acquisition Officer has filed these appeals.

4. From a perusal of the order of the reference Court and the record, it is evident that the respondents/claimants relied upon Ex.A-1 - registered sale deed, dated 15.04.2006, under which an extent of Acs.2.00 of land in survey No.88 of Devarapalli Village was sold at Rs.2,00,000/- per acre. The Land Acquisition Officer, however, relied upon Ex.B-1 – registered sale deed, dated 02.01.2007, whereunder an extent of Acs.1.15 cents of land in survey No.110-1 was sold at Rs.80,000/- per acre. The reference Court, however, chose to rely upon on Ex.A-1. No doubt, as pointed out by the learned Special Government Pleader, the reasoning of the reference Court for discarding Ex.B-1 is not satisfactory. However, the law is well settled that among several sale transactions taken place within the permissible period i.e., three

years immediately preceding the date of notification issued under Section 4(1) of the Act, the sale transactions reflecting the highest market value of the land having similar potentiality has to be adopted for the purpose of fixation of market value of the acquired lands. It is not in dispute that the acquired lands in the instant case are located in survey Nos.88 to 110. The land sold under Ex.A-1 is situated in survey No.88. Indeed, it could be seen from the award that the land of the respondent/claimant in L.A.A.S.No.624 of 2017, which is situated in survey No.89/2 is surrounded by the land in survey No.88 on north as well as west. It is, thus, evident that the lands sold under Ex.A-1 are neighbouring or located within the vicinity of the acquired lands. It is not the case of the Land Acquisition Officer that the acquired lands do not have the same potentialities that the land covered by Ex.A-1 possesses. Therefore, we do not find any illegality in the order of the reference Court in preferring Ex.A-1, which pertains to the land situated in survey No.88, to Ex.B-1, which pertains to the land situated in survey No.110-1.

5. In the premises as above, we do not find any merit in these Appeals and the same are, accordingly, dismissed.

6. As a sequel to dismissal of these appeals, miscellaneous petitions pending for consideration, if any, in these appeals shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

D.V.S.S.SOMAYAJULU, J

11th April, 2018
GHN

