

**THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

L.A.A.S.No.820 OF 2005

JUDGMENT: (per Hon'ble Sri Justice T.Amarnath Goud)

The appellant has challenged the legality of the order dated 13.12.2004, in O.P.No.38 of 1997, passed by the Senior Civil Judge at Huzurabad, whereby, the learned Reference Court has enhanced the compensation payable to the respondent-land losers from Rs.5,000/- per acre to Rs.20,000/- per acre for the land located in Ananthasagar village.

2. Briefly, the facts of the case are that *vide* notification dated 21.06.1981 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, "the Act"), the Government had proposed to acquire a total extent of Acs.16-11 guntas of land, situated in Elkathurthy and Ananthasagar Villages of Elkathurthy Mandal, Karimnagar District, for the purpose of excavation of Tail Channel BTUT at km.207.575. While determining the compensation, the LAO relied upon a total of forty seven sale documents prevailed in that area immediately preceding three years from the date of issuance of Section 4(1) notification. In the said sale deeds, the lowest sale consideration per acre was mentioned at Rs.2,000/-, and highest sale consideration was mentioned at Rs.53,777.75 ps., in respect of dry land. In case of wet land, the lowest consideration per acre was mentioned at Rs.8,000/-, and highest consideration per acre mentioned as Rs.2,81,600/-. After following the procedure under

the Act, the Land Acquisition Officer (LAO) passed the award on 09.09.1986 granting a compensation of Rs.5,000/- per acre.

3. Since the land losers, the respondents, were aggrieved by the award dated 09.09.1986, they approached the Reference Court for enhancing the compensation. According to them, they were entitled to receive a compensation of Rs.1,00,000/- per acre. In order to buttress their claim, they relied on certified copies of sale deeds dated 13.08.1981 (Ex.A.1) and 26.10.1979 (Ex.A.2). Under Ex.A.1, an extent of 60 square yards of house plot was sold at a total sale consideration of Rs.1,600/-. Under Ex.A.2, an extent of 75 square yards of house plot was sold at a total sale consideration of Rs.2,200/-. They further examined two witnesses, and submitted two documents. During the pendency of OP before the Reference Court, the second respondent died. As no claim petition was filed on his behalf, the Reference Court dismissed the OP against B.Jagan Mohan Reddy, the second respondent herein, as abated. The Reference Court then proceeded to decide the claim of the first respondent in respect of Acs.2-00 guntas of land in Sy.No.167 of Ananthasagar Village of Elkathurthy Mandal, Karimnagar District. After going through the evidence produced by both the parties, the learned Reference Court enhanced the compensation as aforementioned. Hence, this appeal before this Court.

4. The learned Government Pleader for Appeals, appearing for the appellant, has contended that the learned Reference Court has

ignored the fact that Ex. A.1 relates to a small house plot to the extent of merely 60 square yards. Therefore, the price shown for the said land cannot be compared with the value of the land under acquisition, which comprises of a large extent of land. He further contended that the learned Reference Court, having observed that the land covered under Ex.A.1 was a house site, and the land of the claimant was acquired for excavation of tail channel, both cannot be compared, ought not have enhanced the amount to Rs.20,000/- per acre. Thus, the impugned order suffers from non-application of mind.

5. On the other hand, Mr. T.Ramulu, the learned counsel for the first respondent-first claimant, has vehemently contended that the learned Reference Court was justified in relying on Ex. A.1. Even though it has observed that the acquired lands cannot be compared with the land sold under Ex.A.1, the spirit of the impugned order is clear that Rs.20,000/- per acre needs to be paid for the land situated in Anathasagar village, along with other statutory benefits. Therefore, the learned counsel for the first respondent-first claimant has supported the impugned order.

6. Heard the learned counsel for the parties, perused the impugned order, and examined the record.

7. Since the second respondent has already died during the pendency of the OP before the Reference Court, the observations made in this appeal relate only to the extent of first respondent.

8. A bare perusal of the impugned order clearly reveals that the learned Reference Court relied not only on Ex. A.1 but most importantly, on the testimony of Edla Ravinder Reddy (P.W.1). In his testimony, Edla Ravinder Reddy (P.W.1) has clearly stated that the land under acquisition was a dry-cum-wet land where he was raising commercial crops and was earning an annual income of Rs.15,000/- per acre. The said testimony has not been shattered, either in the cross-examination, or by any rebuttal evidence produced by the appellant. Ex. A.1, sale deed, was produced only to support the claim of Edla Ravinder Reddy (P.W.1). Therefore, the learned counsel for the appellant is unjustified in claiming that the learned Reference Court has erred in relying upon Ex. A.1 for granting the enhanced amount.

9. Although the learned Reference Court has observed that land sold under Ex.A.1 is for the purpose of house site, and the subject land was acquired for the excavation of tail channel, and both cannot be compared with, but in the operative portion of the impugned order, the learned Reference Court has clearly stated that the compensation of Rs.20,000/- per acre should be paid for the land situated in Sy.No.167 of Ananthasagar village. Therefore, the contentions raised by the learned counsel are clearly untenable.

10. Though no specific evidence was placed before the Reference Court for fixing the compensation amount at Rs.20,000/- per acre, some reasonable amount has to be fixed by way of via media, as

the LAO has fixed Rs.2,000/- as minimum and Rs.53,777.75 ps., as maximum. The compensation amount cannot be equated with the agricultural land of the land loser, as the same is the source of their livelihood. In the circumstances, it can be said that the order of the Reference Court fixing compensation at Rs.20,000/- appears to be just and reasonable.

11. For the reasons stated above, this Court does not find any merit in the present appeal. The order dated 13.12.2004, in O.P.No.38 of 1997, passed by the Senior Civil Judge at Huzurabad, is, hereby, confirmed. The appeal is dismissed, accordingly. However, this judgment shall not be construed as a binding precedent for the proceedings, if any, arises out of the same notification.

There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

RAGHVENDRA SINGH CHAUHAN, J

T.AMARNATH GOUD, J

Date: 14.02.2019
TJMR