

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.4443 of 2019

ORDER

Heard learned counsel for the petitioners, learned Government Pleader for Revenue for respondents 1 to 4 and learned Government Pleader for respondents 5 to 7.

2. This writ petition is filed challenging the award proceedings in File No.A/287/2015 dated 13.03.2018.

3. The case of the petitioners is that they are owners of small extents of land ranging from 100 sq. yards to 800 sq. yards and they had purchased the said lands on square yard basis about 10 years back prior to initiation of land acquisition proceedings. Taking into consideration the preliminary report of the revenue authorities, the Land Acquisition Officer issued notification under Section 11 of the Land Acquisition Act, 1894 (for short 'the Act'), specifying the nature of the proposed lands to be acquired as house plots. In the said notification, as against the column of 'owners of the land/persons interested', the lands were shown as plots. During award enquiry, the petitioners had also placed their respective sale deeds before the Land Acquisition Officer evidencing that they had purchased the said lands on square yard basis. In spite of the same, the Land Acquisition Officer, without taking into consideration the market value on square yard basis, had determined the compensation on acreage basis discarding the sale deeds produced by the petitioners

as well as the well settled principles for ascertainment of the compensation.

4. Learned counsel for the petitioners while reiterating the aforesaid averments has placed reliance on the judgments of the Apex Court in **Digamber and others v. State of Maharashtra and others**¹ and **Om Parkash and others v. State of Haryana**².

5. On the other hand, learned Government Pleader submits that there is an effective alternative remedy available to the petitioners before the 'authority' was notified under Section 64 of the Act. He further submits that a large factual data is required to be verified and the competent authority notified under Section 64 of the Act is authorized to record evidence and to determine the compensation on square yard basis.

6. At the out set, perusal of the award dated 13.03.2018 would disclose that while dealing with the claim of the petitioners, the Land Acquisition Officer noted that out of 5484 sale transactions, 93 sale transactions were on acreage basis and the remaining 5391 sale transactions are on yardage basis that had taken place during the crucial period in Jangaon Village and Mandal. However, the Land Acquisition Officer had discarded the sale transactions under yardage basis and accepted the sale transactions on acreage basis. Therefore, the argument of the learned counsel for the petitioners that the Land Acquisition Officer ought not to have ignored the sale

¹ AIR 2013 SC 3532

² 2016(3) Scale 54

transactions on yardage basis, *prima facie*, appears to be a tenable argument. However, the fact is that under Section 64 of the Act, the competent authority being a Judicial Officer has to decide the disputes regarding enhancement of the compensation as the sale deeds produced by the petitioners require voluminous verification of the factual data apart from consideration of the contentions of the respective parties, particularly, with regard to the market value.

7. In those circumstances, it is to be noted that power under Section 64 of the Act, is akin to the one vests with the District Judge in terms of reference under Section 18 of the Act. It is also to be noted that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) had simplified the procedure and the authority notified under Section 64 of the Act has been conferred with vast powers to determine the just compensation that is payable.

8. Considering the fact that, essentially, the petitioners, numbering 119 and other land owners being more than 5,000 and aged, who have not approached the Court, the issue can be decided in one single reference and determine the compensation payable as it may not be possible to consider all the cases of 5391 for adjudication and as the only claim of the petitioners is that they shall be paid compensation on square yard basis in stead of acreage basis.

9. In those circumstances, the writ Petition is disposed of with direction to respondents 3 and 4 to take necessary steps in terms of Section 76 of Act 30 of 2013 read with Section 64 of the Act expeditiously, at any rate, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

CHALLA KODANDA RAM, J

5th March, 2019

sj

