

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

APPEAL SUIT No.3786 OF 2003

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

The appellant has challenged the legality of the order dated 05.06.2002, in O.P.No.32 of 1994, passed by the Senior Civil Judge at Jagtial, whereby, the learned Reference Court has enhanced the compensation payable to the respondent-land loser from Rs.10,021/- per acre to Rs.25,000/- per acre for the land located in Yamapur village of Ibrahimpatnam Mandal in Karimnagar District.

2. Briefly, the facts of the case are that *vide* notification dated 23.01.1992 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, "the Act"), the Government had proposed to acquire lands in Yamapur village, for the purpose of providing house sites to the Scheduled Caste and other Weaker Sections of Yamapur village. While determining the compensation, the Land Acquisition Officer (LAO) relied upon sale documents prevailed in that area immediately preceding three years from the date of issuance of Section 4(1) notification. By relying on the document Nos.2315/1989, dated 28.12.1989, and No.430/1991, dated 13.06.1991, the LAO fixed the market value of the land of the land loser i.e., Acs.2-00 guntas in Yamapur village, at Rs.10,021/- per acre. After following the procedure under the Act, the LAO passed the award on 30.11.1993.

3. Since the land loser, the respondent, was aggrieved by the award dated 30.11.1993, she approached the Reference Court for enhancing the compensation. According to her, she was entitled to receive a compensation of Rs.80,000/- per acre. In order to buttress her claim, she relied on a certified copy of sale deed dated 23.01.1990 (Ex. A.1). Under Ex. A.1, an extent of Ac.0-30 guntas of land situated at Thimmapur village, which is situated at a distance of one kilometer from the land under acquisition, was sold at a sale consideration of Rs.23,800/- per acre. She further examined two witnesses, and submitted one document. 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 the land sold under Ex. A.1 is situated very near to the irrigation facilities and it is in a more advantageous position than the land of the claimant. Therefore, the price shown for the said land cannot be compared with the value of the land under acquisition. He further contended that though the claimant did not file any documentary evidence to show that the land sold under Ex. A.1 is similar in fertility to the land under acquisition, the learned Reference Court enhanced the amount to Rs.25,000/- per acre without any basis. Thus, the impugned order suffers from non-application of mind.

5. None appears on behalf of the respondent.
6. Heard the learned counsel for the appellant, perused the impugned order, and examined the record.
7. 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 testimonies of Kalvakuntla Neeraja Bai (P.W.1) and Enugu Bhoomaiah (P.W.2). In her testimony, Kalvakuntla Neeraja Bai (P.W.1) has clearly stated that in the land under acquisition, she was raising turmeric, maize, sugarcane, chillies and was earning an annual income of Rs.20,000/- to Rs.25,000/-. She further stated that the land under acquisition is situated near the village abadi and is meant for house sites. 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 Kalvakuntla Neeraja Bai (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.
8. Though no specific evidence was placed before the Reference Court for fixing the compensation amount at Rs.25,000/- per acre, it has fixed the compensation basing on the land sold under Ex. A.1, which is situated at a distance of one

kilometer from the land under acquisition. Since agricultural land is an essential asset for a farmer, the grant of compensation of Rs.25,000/- per acre is not reasonable. Therefore, the learned Reference Court is justified on relying upon Ex.A-1 in order to assess the compensation as Rs.25,000/- per acre.

9. For the reasons stated above, this Court does not find any merit in the present appeal. The order dated 05.06.2002, in O.P.No.32 of 1994, passed by the Senior Civil Judge at Jagtial, 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: 22.02.2019
TJMR