THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T. VINOD KUMAR

A.S. No.662 of 2004

JUDGMENT: (per Hon'ble Sri Justice M.S. Ramachandra Rao)

This appeal is filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') challenging the judgment and decree dt.28.11.2001 in O.P. No.18 of 1994 of the Senior Civil Judge at Jagitial. The State has preferred this appeal through the Mandal Revenue Officer (LAO) Kathalapur.

2. An extent of Ac.2.5 gts of dry land in Sy. No.337/BCD, 338/ABC and 362/ABCD situated at Peggerla village of Kathalapur Mandal in Karimnagar District was acquired pursuant to a notification issued under Section 4(1) of the Act dt.07.10.1991. The purpose of acquisition was for providing house sites to Scheduled Castes people of the said village.

3. An award was passed on 06.10.1993 in proceedings No.B/50/85 by the Land Acquisition Officer/appellant. The possession of the land was also taken on 29.09.1991. In the award, the Land Acquisition Officer fixed the market value of the acquired land at Rs.7,150/- per acre.

4. The respondents in the appeal protested and sought a reference under Section 18 of the Act seeking market value of Rs.80,000/- per acre.

5. The said reference was numbered as O.P. No.18 of 1994.

6. Before the Reference Court, the respondents examined P.Ws-1 and 2 and marked Ex.A-1 which is a registered sale deed for an extent of 242

square yards in Sy. No.338/E which was sold for a consideration of Rs.3,000/- by one Beerkuri Chinnaiah in favour of Masam Gangaram.

7. The appellant examined R.W-1 and marked Ex.B-1 award dt.06.10.1993.

8. By judgment and decree dt.28.11.2001, the Court below enhanced the market value from Rs.7,150/- per acre granted by the Land Acquisition Officer to Rs.20,000/- per acre.

9. It relied on evidence of P.Ws-1 and 2 who stated categorically that the land covered under Ex.A-1 was very near to the land which was acquired. It observed that the appellant did not seriously challenge the distance between the land covered by Ex.A-1 and the acquired land; the land covered under Ex.A-1 was also purchased for construction of houses; and though it is for a small portion of only Ac.0.2 gts and the acquired land was for a larger extent, with a reasonable deduction, the said transaction can be taken into account. The Court below also noted the evidence of the respondents that they were raising commercial crops in the acquired land, that they had annual income of Rs.20,000/- per acre, and held that after allowing reasonable deductions for development of the land and taking into consideration that only a small extent of land was sold under Ex.A-1, the proper market value of the acquired land would be only Rs.20,000/- per acre. It also granted solatium at Rs.30%, but did not grant additional market value.

10. The claimants have not carried the matter in appeal challenging the denial of additional market value.

11. In this appeal, it is the contention of the Government Pleader for Arbitration appearing for the appellant that the enhancement made by the Court below from Rs.7,150/- per acre to Rs.20,000/- per acre is contrary to law and the market value fixed by the Court below did not represent the true market value. He also contended that only small extent of land was sold under Ex.A-1 and it could not have been taken into consideration.

12. Notice has been issued in the appeal to the respondents. Respondents 1 to 9 have been served and against 10th respondent, the appeal had been dismissed for default on 02.03.2015.

13. Be that as it may, since the acquired land and the land which was sold under Ex.A-1 are admittedly very proximate to each other, and there is no other transaction brought on record by either party which can be taken into account, and since the transaction under Ex.A-1 occurred on 18.07.1986, while the subject land was acquired on 07.10.1991, the transaction under Ex.A-1 cannot be totally ignored since the purchase under Ex.A-1 was also for construction of houses, which was also for the purpose for which the subject land had been acquired.

14. As rightly held by the Court below by allowing reasonable deductions for development of the land, appropriate compensation can be fixed taking into consideration Ex.A-1, though only a small extent of land was sold thereunder.

15. In our considered opinion, having regard to the gap between Ex.A-1 and the date of acquisition of the subject land, even if reasonable

deduction is taken into account in the value for development of the land, the market value fixed by the Court below of Rs.20,000/- per acre does not appear to be high and in fact appears to be on the lower side.

16. In this view of the matter, we are not inclined to interfere with the judgment and decree.

17. So the appeal fails and is accordingly dismissed. No costs.

18. Miscellaneous petitions pending, if any, shall stand closed.

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M.S. RAMACHANDRA RAO, J

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T. VINOD KUMAR, J

Date: 28.08.2019

MRKR