

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

L.A.A.S.No.788 OF 2007

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

In this appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, "the Act") originally filed by the Land Acquisition Officer-cum-Revenue Divisional Officer, Vikarabad, in which Union of India represented by its Deputy Chief Engineer (Constructions) South Central Railway, Secunderabad, is impleaded as second appellant, the order dated 07.10.2004, in O.P.No.76 of 1995, passed by the Senior Civil Judge, Vikarabad, Ranga Reddy District, is questioned.

2. By the aforesaid order, the learned Reference Court, answered the reference made under Section 18 of the Act, by fixing compensation for the acquired land i.e., Ac.0-22 guntas in Sy.No.17 of Vikarabad village, at Rs.130/- per sq. yard with 1/5th deduction.

3. Briefly, the facts of the case are that the Divisional Engineer, Doubling-I, South Central Railway at Vikarabad, sent requisition to the Land Acquisition Officer (LAO) for acquisition of the land admeasuring Ac.35-00 guntas in Sy.No.14, Ac.1-18 guntas in Sy.No.15, and Ac.0-08 guntas in Sy.No.16 of Vikarabad village and town, for the purpose of railway line doubling. Based on such requisition, notification under Section 4(1) of the Act was issued, which was published in the Official Gazette on 27.07.1994. The

possession was taken on 06.02.1995. The LAO passed award on 31.07.1995 vide proceedings No.B/1435/91, fixing compensation for the land acquired at Rs.50,000/- per acre, as against the claim of the respondent-claimant ranging from Rs.300/- to Rs.800/- per sq. yard.

4. Since the land loser, the respondent, was aggrieved by the award dated 31.07.1995, they approached the Reference Court for enhancing the compensation. According to her, she was entitled to receive a compensation of Rs.500/- per sq. yard. In order to buttress her claim, she relied on sixteen documents, Exs. A.1 to A.16, and got examined three witnesses, P.Ws.1 to 3. 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.

5. The learned Government Pleader for Appeals, appearing for the appellant No.1, has contended that for the land under acquisition, the LAO, after surveying the sale statistics for the preceding three years to the notification, has fixed compensation at Rs.50,000/- per acre. The Reference Court committed error in accepting the sales pertaining to small plots by treating them as comparable sales for the purpose of determining the compensation. When large extents of lands are acquired, the sales pertaining to small plots cannot give correct picture with regard to market value, as such, the Reference Court has committed error by considering such documentary evidence for enhancement of the compensation.

6. Mr.R.S.Murthy, the learned counsel for the appellant No.2, has contended that as much as the land acquired is for the purpose of railway doubling on acerage basis, the Reference Court committed error by determining compensation on yardage basis. He further contended that whenever large tracts of lands are acquired for public purpose, market value cannot be fixed based on yardage basis.

7. On the other hand, Mr.N.Vasudeva Reddy, learned counsel for the respondent, has contended that the land acquired is in Vikarabad town which is a well-developed and important town in Ranga Reddy District. The land acquired is in close proximity to Railway Station, Housing Board Colony and situated within Vikarabad town limits. He has further contended that Housing Board Colony has come up about 15-16 years back and entire sale statistics preceding three years to the date of notification in question indicate the market value at Rs.504/- per sq. yard. However, purposefully, the LAO has chosen only one sale out of 134 sales and fixed the compensation, discarding other evidence and without assigning valid reasons.

8. Learned counsel, Mr.N.Vasudeva Reddy, has further contended that vide the same 4(1) notification, the land which is the subject matter in O.P.No.44 of 1995 was also acquired and Award was passed; seeking enhancement of compensation, the matter was referred to the Reference Court, whereupon the Reference Court had enhanced the compensation by determining

the market value of the land at the rate of Rs.130 per square yard. Learned counsel has further contended that challenging the enhancement, the Government has filed an appeal before the Division Bench of this Court in LAAS No.762 of 2007; on the contrary, the claimants therein sought further enhancement of compensation by filing Cross-Objections (SR) No.14683 of 2007. The Division Bench by order dated 05.09.2014 dismissed the appeal and allowed the cross-objections, thereby enhancing the compensation. The compensation was enhanced on yardage basis.

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

10. A perusal of the order dated 05.09.2014 passed by the Division Bench of this Court in LAAS.No.762 of 2007 and Cross Objections (SR).No.14683 of 2007, would show that this Court had dealt with rival petitions, one for further enhancing the compensation, and the other challenging the enhancement granted by the Reference Court. It is to be noticed that in the instant case, though the Government has challenged the enhancement granted by the Reference Court, however, there is no petition filed by the claimant seeking further enhancement. As the present appeal also arising from the same notification pertaining to land acquisition in the same vicinity, we are of the considered view that a different stand cannot be taken in the same set of facts. Hence, the compensation awarded by the Reference Court on yardage basis is

confirmed. Consequently, the contention that the compensation has to be awarded on acreage basis is negatived.

11. For the reasons stated above, this Court does not find any merit in the present appeal. The order dated 07.10.2004, in O.P.No.76 of 1996, passed by the Senior Civil Judge, Vikarabad, Ranga Reddy District, is, hereby, confirmed. Accordingly, the appeal is dismissed.

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: 21.02.2019
TJMR

