

**THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

A.S. No.4194 OF 2004

JUDGMENT: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellant has challenged the legality of the order dated 08.08.2002, in O.P.No.14 of 1997, passed by the learned Senior Civil Judge, Huzurabad, whereby, the learned Reference Court has enhanced the compensation payable to the land losers, the respondents from Rs.6,000/- to Rs.30,000/- per acre for the lands acquired by the Government at Patherlapalli Village, Jammikunta Mandal, Karimnagar District.

Briefly the facts of the case are that *vide* notification dated 25.03.1986, issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, "the Act"), the Government had proposed to acquire lands in the limits of Patherlapalli village, for the purpose of excavation of 9L Canal. During the course of enquiry, the Land Acquisition Officer ('LAO', for short) had relied upon the registered sale documents prevailed in that area immediately preceding three years from the date of issuance of Section 4(1) notification. After following the procedure under the Act, on 23.03.1987, the LAO passed the award. The LAO fixed the market value of the acquired land at Rs.6,000/- per acre.

Since the land losers, the respondents, were aggrieved by the award dated 23.03.1987, they approached the Reference Court for seeking enhancement of the compensation. For, according to the respondents, the acquired lands were fertile lands. The lands were suitable for cultivating commercial crops, like cotton, groundnut, chillies etc.; and they used to get a net annual income of

Rs.10,000/- per acre. Thus, they were entitled to receive a compensation of Rs.50,000/- per acre. In order to buttress their claim, the respondents submitted two documents (Exs. A-1, A-2) and examined three witnesses. 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.

The learned Government Pleader for Appeals submits that the learned Reference Court was unjustified in relying upon the two documents submitted by the respondents, namely Exs. A-1 and A-2.

Secondly, the respondents have failed to establish the fact that Exs. A-1 and A-2 relate to the lands, which are adjacent to the lands of the respondents.

Thirdly, the learned Reference Court has erred in ignoring the documents relied upon by the LAO while granting the compensation of Rs.6,000/- per acre to the respondents.

Lastly, the enhancement of compensation from Rs.6,000/- to Rs.30,000/- per acre is a phenomenal increase. Therefore, the compensation enhanced by the learned Reference Court needs to be set aside.

On the other hand, Mr. V. Ravi Kumar, the learned counsel for the respondents, has raised the following counter-arguments:-

Firstly, the respondents are justified on relying on Ex. A.1, which is a registered sale deed, dated 11.01.1982, of a land which is not too far from the land belonging to the respondents. In fact, having compared the contents of the sale deed, which was proven by the witnesses, the learned Reference Court has rightly

concluded that the land belonging to the respondents was of a far superior quality than the land mentioned in the sale deed dated 11.01.1982.

Secondly, Ex. A.2 happens to be the order and decree passed in O.P.No. 38 of 1996, whereby the learned Senior Civil Judge, Huzurabad had enhanced the compensation of other land losers, who had lost the land in the same acquisition proceedings and from the same village. Therefore, the reliance placed by the learned Reference Court on these two documents is legally justified.

Thirdly, according to the learned Reference Court, the appellant did not submit the documents relied upon by the LAO. Therefore, the learned Reference Court could not rely on the said documents.

Lastly, considering the fertility of the land, considering its potential for development, the learned Reference Court was justified in enhancing the compensation from Rs.6,000/- to Rs.30,000/- per acre. Therefore, the learned counsel has supported the impugned order.

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

A bare perusal of the impugned order reveals that the learned Reference Court has noted the fact that the documents, on which the LAO had relied upon, have not been submitted before the Reference Court. On the other hand, the claimants had submitted two documents, namely Exs. A-1 and A-2. Therefore, the learned Government Pleader is unjustified in claiming that the learned Reference Court has erred in ignoring the documents relied

upon by the Land Acquisition Officer in order to calculate the compensation payable to the claimants-respondents.

Ex. A-1 relates to land near the land which was acquired by the Government. Therefore, the learned Reference Court was justified in relying upon the said document. Moreover, Ex. A-2 relates to the enhancement of compensation of land which was subject-matter of the same acquisition proceedings. The enhancement was made by the learned Reference Court in O.P. No. 38 of 1996. Therefore, the learned Reference Court was absolutely justified in relying upon the said document. Hence, the contention raised by the learned Government Pleader that the Reference Court should not have relied upon these two documents is highly misplaced.

Even the last contention raised by the learned Government Pleader is unacceptable. For, the material issue is not whether the compensation has been enhanced at a phenomenal rate or not? But the issue is the value of the land, considering both its physical nature and its potential for future development. The value of the land would also include the existence of super-structures, or of trees and plants, which are attached to that land at the time of acquisition. Therefore, merely because the compensation has been enhanced from Rs.6,000/- per acre to Rs.30,000/- per acre, such an enhancement cannot be termed to be an unreasonable one. Considering the fact that the respondents-claimants could grow two crops in a year, considering the fact that the acquisition of an agricultural land deprives the farmer of his right to livelihood, the enhancement of the compensation from Rs.6,000/- to Rs.30,000/- per acre is most reasonable.

For the reasons stated above, this court does not find any merit in the present appeal. It is, hereby, dismissed. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, J

ABHINAND KUMAR SHAVILI, J

Date: 22.03.2019

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