

THE HON'BLE JUSTICE G. SRI DEVI

AND

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

L.A.A.S.No.696 of 2010

JUDGMENT: (Per Hon'ble Justice G. Sridevi)

This appeal is filed under Section 54 of the Land Acquisition Act, 1894 (for short "the Act") by the claimants aggrieved by the order and decree dated 25.01.2007 made in O.P.No.30 of 2002 on the file of the II Additional Senior Civil Judge, Warangal.

2. Brief facts of the case are that the land of the claimants, situated at Jookal Village, Chityal Mandal, Warangal District, was acquired by the Government for the purpose of excavation of Kakatiya Canal by issuing draft notification under Section 4 (1) of the Act on 09.07.2001 followed by draft declaration under Section 6 of the Act. After due enquiry, the LAO passed an award on 23.01.2002 by fixing the market value of the acquired land at Rs.30,000/- per acre. Seeking enhancement of market value of the acquired land, the claimants sought for reference under Section 18 of the Act. The reference Court enhanced the market value of the acquired land to Rs.40,000/- per acre.

Aggrieved by the same, the claimants have preferred this appeal seeking further enhancement.

3. Heard learned counsel for the claimants and Sri D. Kiran, learned Assistant Government Pleader for Appeals for the respondent. Perused the material available on record.

4. Learned counsel for the claimants has contended that as the acquired lands are fertile lands and fit for cultivation of commercial crops, the reference Court ought to have fixed the compensation at Rs.80,000/- per acre. Basing on Ex.A5, the earlier acquisition proceedings, the learned counsel contends that the reference Court ought to have fixed the market value atleast Rs.60,000/- per acre inasmuch as both the lands were acquired for the same purpose.

5. The learned Assistant Government Pleader has contended that basing on the evidence adduced by the claimants, the reference Court has rightly enhanced the market value from Rs.30,000/- to Rs.40,000/- per acre, which needs no interference by this Court.

6. According to the claimants, the acquired lands are fertile and at the time of acquisition they were fetching Rs.1,50,000/- per acre and that they used to raise commercial crops and used to get an income of Rs.30,000/- per acre per annum. However, to support their claim that the reference Court ought to have fixed the market value atleast Rs.60,000/- per acre, they have relied on Ex.A5, earlier acquisition proceedings in O.P.No.75 of 1999 pertaining to Jadalpet Shivar and Muchiniparthi village, which is adjacent to Jookal village. Even the claimants have examined P.W.3, who is the claimant in O.P.No.75 of 1999. According to P.W.3, as against the fixation of market value at Rs.25,000/- by the Land Acquisition Officer, on reference, the reference Court in O.P.No.75 of 1999, has enhanced the market value to Rs.60,000/- per acre. He further deposed that the lands covered by Ex.A5 and the present acquired lands are situated at a distance of 2 kms., and that the nature and fertility of both the lands are similar in nature. The evidence of P.W.3 has not been disputed by the L.A.O. Although the claimants have established that the acquired lands and the lands covered by Ex.A5 are situated within a distance of 2 kms., the reference Court has erroneously discarded Ex.A5 in fixing

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the market value of the acquired land. When it is established by the claimants that the acquired lands and the lands covered by Ex.A5 are situated within 2 kms., and are having same potentiality and fertility, the reference Court ought to have relied on Ex.A5 for fixing the market value of the acquired land. Therefore, this Court is inclined to fix the market value of the acquired land at Rs.60,000/- per acre basing on Ex.A5.

7. In the result, the appeal is allowed in part and the market value of the acquired land is enhanced from Rs.40,000/- to Rs.60,000/- per acre. The claimants are entitled for the statutory benefits like Additional amount, solatium and interest as per law. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

G. SRI DEVI, J

SMT. M.G.PRIYADARSINI, J

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