THE HON'BLE SRI JUSTICE M.LAXMAN

APPEAL SUIT No.2420 of 1990

JUDGMENT:

1. The present Appeal Suit is directed against the Judgment dated 30.11.1989 in O.P.No.34 of 1986 on the file of the Court of learned Subordinate Judge, at Vikarabad, Ranga Reddy District whereunder, the compensation awarded by the Land Acquisition Officer was modified and enhanced from Rs.3,300/- per acre to Rs.6,000/- per acre. Aggrieved by the same, the present Appeal has been preferred by the claimant.

2. The case of the claimant is that he is the absolute owner and possessor of Ac 4.00 gts of land in Survey No.467 of Mothukur Village of Doma Mandal. Pursuant to notification and declaration No.A3/102, dated 08.02.1983 the said land was acquired for the purpose of allotment of house sites to the weaker sections of the community. By invoking urgency clause, the possession of the land was taken on 07.08.1984. The award was passed by the reference Court on 30.11.1989 fixing the market value of the suit land at Rs.3,300/- per acre.

3. Learned counsel for the claimant contended that the market value of the suit land at the time of publication of the notification

was Rs.24,000/- per acre. He further contended that the land was fertile land and he used to raise commercial crops like Red Gram, Ground nut, Jowar and another. He was earning an annual income of Rs.10,000/- per acre after deducting the expenses.

4. Apart from that, he also relied upon the sale transaction affected by the claimant in favour of PW2-Madugu Venkataiah, whereunder the market value was shown as Rs.4/- per square yard. Similarly, there are other sale transactions in the village showing the market value as Rs.4/- per square yard. The lands are acquired for the purpose of allotment of house sites to the weaker sections of the community. Therefore, the claimant contends that they are also entitled for compensation on par with the sale transactions affected.

5. The case of the respondent-Land Acquisition Officer was that before arriving at a conclusion to fix the market value of the land acquired, he called for the sale transactions in the village for three years preceding the date of publication of the notification in the Gazette from the registration authorities. He submitted that the sale transactions relied upon by the claimant was pertaining to non-agricultural lands. Therefore, the same cannot be a basis

for fixing the market value of the agricultural land. According to the respondent, the trial Court rightly discarded Exs.A1 and A2 as the sale transactions were pertaining to non-agricultural lands. Hence, he contended that the compensation awarded by the reference Court is just and reasonable.

6. Basing on the pleadings the reference Court has framed the following Issues:-

> *Whether the compensation awarded by the Land Acquisition Officer is adequate and if so to what relief ?*

7. The claimant in support of his case has examined PWs.1 to 4 and marked Exs.A1 to A3. On behalf of the respondent, none examined. No document marked.

8. Heard Sri N. Praveen Reddy, counsel appearing for Sri N. Vasudeva Reddy, learned counsel for the appellant and learned Government Pleader for Appeals.

9. Learned counsel for the appellant-claimant contended that the Court below has ignored Ex A1 which is the sale deed pertaining to survey number under which the land is acquired. The said sale deed was ignored for the reason that the claimant was the vendor for said transaction without there being any reason to impeach the credibility of the sale transaction. It is also

his submission that apart from Ex A1 other sale transaction under Exs.A2 and A3 pertains to same Village of different survey number and the market value was Rs.4/- per square yard. The two documents coupled with the evidence of the witnesses relating to the said transactions clearly corroborates that the claim of PW1 with respect to the transaction under Ex A1.

10. Learned counsel for the appellant-claimant in support of his contention, relied upon the judgments of the Hon'ble Supreme Court in "***Kalluri Venkata Narasimha Rao Vs. Land Acquisition Officer***[1]" and "***Mahamaya General Finance Company Limited Vs. State of Uttar Pradesh and Others***[2]***".***

11. Learned Government Pleader appearing for the respondent contended that the reference Court after considering the testimonies of witness and other documents, rightly discarded the documents viz., Exs A1 and A2 for the reason that those documents are pertaining to the transactions made in relation to non-agricultural lands and the acquired lands are agricultural lands. Therefore, the same cannot be a foundation to fix the market value of the lands meant for agricultural purposes. The

[1] (2019) 13 Supreme Court Cases 401
[2] (2014) 15 Supreme Court Cases 290

reference Court is thus, justified in discarding the evidence. Therefore, the interference from this Court is not required.

12. It is also his further contention that the extent covered under Exs A1 to A3 are smaller extents and the same cannot be a basis for fixing market value of larger extent of land.

13. As seen from the evidence of PW1, he deposed that prior to acquisition, the suit land was meant for cultivation. They were raising commercial crops like Red Gram, Ground nut, Jowar and another. PW1 further stated that he was earning a net income of Rs.10,000/- per acre per annum. He sold an extent of 96 square yards of land to one Madugu Venkatiah on 28.08.1982 for house sites and Ex A1 is the sale deed for the said land. The other sale transactions under Exs A2 and A3 show that they were also made for sale of similar extent of open land admeasuring 100 sq. yards and 144 sq. yards respectively pertaining to different survey number viz., survey No.780 of Mothkoor Village, Bompally Circle, Pargi Taluk, Ranga Reddy District and they were sold at the rate of Rs.4/- per square yard.

14. Moreover from the cross-examinations of PWs.1 to 4, the Land Acquistion Officer could not make out any evidence to show

that the persons who were parties to the sale deeds under Exs.A1 to A3 were aware of the proposed acquisitions so as to inflate value. There is no principle that a smaller extent of land cannot be relied upon for fixing market value for a larger extent. It depends upon facts and circumstances of each case. When the land itself is acquired for house sites, smaller extent can be basis for fixing the market value for the acquired larger extent of land. In this regard it is relevant to refer to decision of the Hon'ble Supreme Court in "***Mahamaya General Finance Company Limited Vs. State of Uttar Pradesh and Others[3]".*** The relevant para is extracted as hereunder:-

> "Para No.9. We have considered the submissions advanced on behalf the parties and the materials on record. The compensation awarded to the appellants at the rate of Rs.1.33 per square yard is based on the sale deed dated 20.01.1969 (Ex. A-1) in respect of a plot measuring 200 square yards situated in the village Maharajpur which was sold by one Naseerudin for Rs.400/-. The sale deeds dated 13.06.1969 and 16.10.1969 exhibited by the appellant before the Reference Court were not considered for the reasons already noted. The close proximity of the dates of aforesaid two sale deeds with the date of the acquisition which has been cited as one of the reasons for not accepting Exbt.1 and Exbt.2 sale deeds does not commend to us. That the said sale deeds are in close proximity of time with the acquisition and being in respect of land located in one of the villages, covered by the acquisition Notification and above all the land being owned by the appellant itself, in our considered view, are vital factors that could not have been ignored. The finding

[3] (2014) 15 Supreme Court Cases 290

> of the Reference Court, upheld by the High Court, to the effect that the sales covered by Exbt.1 and Exbt.2 were executed at inflated rates by the appellant on coming to know of the acquisition proceeding cannot be appreciated. In the order of the Reference Court as well as in the order of the High Court there is no indication on what basis the said finding had been arrived at. What had led the learned courts below to come to the conclusion that the appellants had prior knowledge of the proposed acquisition and on that basis had executed the sale deeds "in a hurry to dispose of the plots which had been carved out" also is not known. The further conclusion that the vendees of the aforesaid sale deeds, not being local residents, did not know about the acquisition proceedings and they were charged fanciful prices for the land is plainly unacceptable in the absence of any materials on record to the said effect. Evidence of vital nature furnished by the two sale deeds dated 13.06.1969 (Exbt.1) and 16.10.1969 (Exbt.2) could not have been rejected on the basis of such surmises and conjectures as has been done in the present case. The High Court having failed to rectify the aforesaid apparent errors we are of the view that the transactions effected by the two sale deeds dated 13.06.1969 (Exbt.1) and 16.10.1969 (Exbt.2) must receive due consideration in the determination of the compensation payable to the appellant".

15. As stated *supra,* the Hon'ble Supreme Court also had an occasion to consider this aspect and held that such a reliance can be made. The Court below discarded Exs.A1 to A3 for the simple reason that they were pertaining to non-agricultural lands when the proposed acquisition itself is in respect of lands meant for non-agricultural purposes. The transactions pertaining to non-agricultural lands cannot be ignored. The proposed acquisition is relevant factor in fixing the market value of the lands. The

acquisition is for providing house sites. The acquired lands were having potential for house sites.

16. From the above decision it is clear that the transactions prior to the acquisition of lands cannot be ignored simply because the claimant is one of the Vendor. Further, Exs A1 to A3 pertains to lands of different survey number in the same village which gives corroboration to Ex A1. Considering the over all evidence on record, this Court feels it appropriate to fix the market value of the acquired land at Rs.10,000/- per acre which is just, fair and reasonable in the circumstances of the case by taking into consideration the market value paid under Exs.A1 to A3.

17. In the result, the Appeal Suit is partly allowed enhancing the compensation from Rs.6,000/- to Rs.10,000/- in respect of the acquired land. The appellant/claimant is also entitled for all other statutory benefits under the Land Acquisition Act, 1894 on the enhanced compensation. No costs. Miscellaneous Petitions, pending if any, shall stand closed.

JUSTICE M.LAXMAN

07.12.2022
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THE HON'BLE SRI JUSTICE M.LAXMAN

157

A.S.No.2420 of 1990

Dated: 08.12.2022

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