

THE HON'BLE JUSTICE G. SRI DEVI
AND
THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI
L.A.A.S.Nos. 263 of 2015 and 87 of 2016

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

Since the issue and the parties in both these appeals are common and the same are arising out of the very same acquisition proceedings, they are heard together and being disposed of by this common judgment.

2. L.A.A.S.No.263 of 2015 is filed by the claimant seeking enhancement of market value fixed by the Principal District Judge, Khammam (hereinafter referred to as "the reference Court") in L.A.O.P.No.350 of 2012 dated 01.09.2014. Challenging the very same order, the L.A.O. preferred L.A.A.S.No.87 of 2016. By the impugned order, the learned reference Court has enhanced the market value of the acquired land from Rs.400/- to Rs.1000/- per square yard.

3. Heard the learned Counsel for the claimant(s) and Sri D. Kiran, learned Assistant Government Pleader for

Appeals appearing on behalf of the Land Acquisition Officer. Perused the material available on record.

4. Brief facts of the case are that the land belonging to the claimant(s) to an extent of 498 square yards, covered by Sy.No.280 and 286, situated at Bank Colony, Khanapuram Haveli was acquired by the Government for the purpose of laying bye-pass road in Khammam Town by issuing notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short "the Act") on 25.10.2006 followed by draft declaration, however, possession of the land was taken much prior to the issuance of the notification i.e., on 27.10.1986. After due enquiry, the Land Acquisition Officer has passed an award on 16.01.2007 fixing the market value of the acquired land at Rs.400/- per square yard. Not satisfied with the compensation determined by the Land Acquisition Officer, the claimant(s) sought reference under Section 18 of the Act for enhancement of the market value. The reference Court duly analyzing the evidence adduced by both the

parties, has enhanced the market value from Rs.400/- to Rs.1,000/- per square yard. Seeking further enhancement of compensation and challenging the said enhancement, the claimant(s) as well as the Land Acquisition Officer filed the present appeals.

5. The learned counsel for the claimant(s) has submitted that as per the sale transactions, which were marked as exhibits, it is evident that the market value of the land in the vicinity was being sold much more than the one fixed by the L.A.O. as well as the reference Court. It is further contended that for the very same purpose i.e., laying of bye-pass road in Khammam, in respect of the very same award, the Land Acquisition Officer has preferred L.A.O.P.No.932 of 2008, wherein the reference Court by its order, dated 26.08.2013 has enhanced the market value of the acquired land from Rs.400/- to Rs.6,000/- per square yard and the same has also become final. Therefore, the learned counsel for the claimant(s) submits that since the present land is also of similar nature and is also situated in

the same area, the enhancement made in L.A.O.P.No.932 of 2008 should also be made applicable to the present case.

6. Although the learned Assistant Government Pleader has contended that the enhancement made by the reference Court is excessive more particularly in the absence of any relevant sale transactions produced by the claimant(s), however, he did not dispute the factum of enhancement of compensation from Rs.400/- to Rs.6,000/- per square yard made in L.A.O.P.No.932 of 2008 which pertains to the very same purpose and very same award proceedings.

7. A copy of the order dated 26.08.2013 made in L.A.O.P.No.932 of 2008 on the file of the Principal District Judge, Khammam, would reflect that with regard to the very same acquisition and very same award, on the reference sought by the Land Acquisition Officer, the reference Court has enhanced the market value from Rs.400/- to Rs.6,000/- per square yard. It also reflects

that the land covered therein and the present land are situated in the very same lane which were acquired for laying of bye-pass road. The said order has also become final as no appeal seems to have been filed by the L.A.O. Such being the case, the claimant(s) cannot be denied to have the benefit of enhancement made in L.A.O.P.No.932 of 2008. Therefore, this Court is inclined to enhance the market value of the acquired land from Rs.1,000/- to Rs.6,000/- per square yard.

8. Admittedly, the possession of the land was taken on 27.10.1986 and whereas the notification was issued on 25.10.2006. In the light of the judgments of the Apex Court in ***R.L.Jain (D) by LRs v. DDA and others***¹ and ***Tahera Khotoon and others v. Revenue Divisional Officer***², the claimant(s) is/are entitled for additional interest at 15% from the date of taking over of actual possession till the date of publication of notification under Section 4 (1) of the Act.

¹ (2004) 4 SCC 79

² (2014) 13 SCC 613

9. In the result, L.A.A.S.No.263 of 2015 filed by the claimant is allowed enhancing the market value of the acquired land from Rs.1,000/- to Rs.6,000/- per square yard. The claimant(s) is/are also entitled all other statutory benefits as per the Act. Further, the claimant(s) is/are entitled for additional interest at 15% from the date of taking over of actual possession i.e., from 27.10.1986 till the date of publication of notification under Section 4 (1) of the Act i.e., 25.10.2006. The claimants are directed to pay the deficit court fee since their claim was only for Rs.5,000/- per square yard. Consequently, L.A.A.S.No.87 of 2016 filed by the L.A.O. stands dismissed. 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

14.09.2022
gkv/tsr