

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

L.A.A.S.No.1457 OF 2005

JUDGMENT: (Per Hon'ble Dr.SA,J)

This appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act'), is filed by the appellant/claimant challenging the order dated 24.03.2005 passed in O.P.No.39 of 1997 by the learned Senior Civil Judge, at Vikarabad, Ranga Reddy District (for short "reference Court").

2. Heard the learned counsel for the appellants, learned Government Pleader for Appeals appearing for the respondent and perused the record.

3. The facts of the case, in brief, are that on a requisition made by the Mandal Revenue Officer, Kulkacherla, various extents of lands belonging to the appellant No.1-claimant and others, situated at Kulkacherla Village, were acquired under the provisions of the Act for providing house sites to the weaker section people of Kulkacherla Village. Notification under Section 4(1) of the Act was published on 25.03.1996 and draft declaration was published on 26.03.1996. The Land Acquisition Officer, after conducting necessary enquiry and collecting sales statistics,

passed an Award on 10.04.1997 fixing the market value at Rs.15,000/- per acre as against the claim of claimants at Rs.500/- per sq.yard and the claimant received the compensation under a protest and with a request to refer the matter to the reference Court. The subject reference under Section 18 of the Act was tried in O.P.No.39 of 1997 by the reference Court. The reference Court, basing on the oral and documentary evidence on record, modified the Award dated 10.04.1997 and fixed the market value at Rs.50/- per sq.yard as against Rs.15,000/- per acre fixed by the Land Acquisition Officer and granted compensation with all statutory benefits after deducting 1/3rd of the area. Aggrieved by the same, the present appeal is filed by the appellant No.1-claimant.

4. During the pendency of the appeal, the sole appellant/ claimant died and his LRs were brought on record as appellant Nos.2 to 6 *vide* order dated 18.03.2021 passed in I.A.No.3 of 2019 in L.A.A.S.No.1457 of 2005. Thereafter, the appellant No.4 died and his L.Rs were brought on record as appellant Nos.7 to 9 *vide* order dated I.A.No.3 of 2020 in L.A.A.S.No.1457 of 2005.

5. The learned counsel for the appellants/claimants would contend that the land acquired is in urban area and it was covered by the houses on the date of publication of notification in Gazette on 25.03.1996. Though there is substantial oral and documentary evidence to prove that market value of the land was Rs.500/- per sq.yard, the Land Acquisition Officer erroneously fixed the market value at Rs.15,000/- per acre. The reference Court also did not take the market value of the land as Rs.500/- per sq.yard and granted compensation of Rs.50/- per sq.yard, which is far below the prevailing the market value as on the date of issuance of notification under Section 4(1) of the Act and ultimately, prayed to allow the appeal and enhance the compensation payable to the appellants/ claimants to Rs.500/- per sq.yard in respect of lands acquired vide Award dated 10.04.1997 passed by the Land Acquisition Officer.

6. On the other hand, the learned Government Pleader for Appeals would contend that there is no single document to show that the market value of the land in the subject vicinity was Rs.500/- per sq.yard as on the date of issuance of notification under Section 4(1) of the Act. The sales statistics collected by the

Land Acquisition Officer clearly show that the sales in Sy.No.862 for the year 1995 were @ Rs.50/- per sq.yard; @ Rs.30/- per sq.yard; and @ Rs.19/- per sq.yard. The reference Court had taken the highest value i.e, @ Rs.50/- per sq.yard and granted compensation with all statutory benefits after deducting 1/3rd of the area, which is just and reasonable. The reference Court had given cogent and convincing reasons for enhancing the compensation. There are no circumstances to vary the impugned order and ultimately, prayed to dismiss the appeal.

7. In view of the submissions made by both sides, the points that arise for determination in this appeal are:

“Whether the appellants/claimants are entitled for enhancement of compensation from Rs.50/- per sq.yard to Rs.500/- per sq.yard in respect of lands acquired vide impugned Award dated 10.04.1997 passed by the Land Acquisition Officer?”

POINT:

8. As seen from the material placed on record, the reference Court, while enhancing the compensation as indicated above, was pleased to place reliance over the oral evidence of PWs.1 to 6 and the documents marked as Exs.A1 to A7. PW.2 stated that he purchased the land admeasuring 100 sq.yards in Sy.No.352 @ Rs.50/- per sq.yard under Ex.A.1-registered sale deed dated

31.03.1989 from one Narayana Reddy and the acquired land is very much nearer to his land. PW.3 stated that he purchased 200 sq.yards of land in Sy.No.351 @ Rs.50/- per sq.yard under Ex.A.2-registered sale deed dated 31.03.1989. PW.4 stated that he purchased 144 sq.yards of land in Sy.No.862 @ Rs.50/- per sq.yard from one Venkat Rao under Ex.A.3-registered sale deed dated 10.04.1995 and that his land is abutting the acquired land. PW.5 stated that he purchased 288 sq.yards of land in Sy.No.862 @ Rs.50/- per sq.yard from one Venkat Rao under Ex.A.6-sale deed dated 10.04.1995. PW.6 stated that his father purchased 144 sq.yards @ Rs.50/- per sq.yard from Venkat Rao under Ex.A.4-registered sale deed dated 10.04.1995. In none of the documents i.e, Exs.A.1 to A.4 and A.6, the market value of the land was exceeding Rs.50/- per sq.yard. Except the oral evidence of PW.1-claimant claiming more compensation i.e, Rs.500/- per sq.yard, there is no single document to substantiate that the market value prevailing at the vicinity of the land acquired was Rs.500/- per sq.yard. Though the Land Acquisition Officer, while dealing with the subject matter examined several documents where the market value of the property was @ Rs.50/- per sq.yard; @ Rs.30/- per sq.yard; and @ Rs.19/- per sq.yard,

granted only Rs.15,000/- per acre. The reference Court while enhancing the compensation considered the documents which were available on record and took the highest value and accordingly, granted compensation @ Rs.50/- per sq.yard to the claimant in respect of the land acquired. The subject land acquired was agricultural land. Except the self-serving statement of PW.1, there is no documentary evidence to arrive at a conclusion that the market value of the land acquired was Rs.500/- per sq.yard as on the date of issuance of notification under Section 4(1) of the Act. No doubt, the land acquired is situated near the urban area. The subject land was acquired vide notification dated 25.03.1996 and draft declaration was published on 26.03.1996. At the time of acquisition of the subject land, there was no much value to the agricultural lands. The Court below is justified in enhancing the compensation, as indicated above. Further, the statutory benefits granted by the Court below are also in consonance with law. Under these circumstances, there is no infirmity or illegality in the impugned order, so as to interfere with the same. Viewed from any angle, the contentions raised by the appellants do not merit consideration. The appeal is devoid of merit and is liable to be dismissed.

9. Accordingly, this appeal is dismissed confirming the order, dated 24.03.2005, passed in O.P.No.39 of 1997 by the Senior Civil Judge, at Vikarabad, Ranga Reddy District.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

NAGESH BHEEMAPAKA, J

Date: 17.10.2022
SCS