

THE HON'BLE JUSTICE G. SRI DEVI

AND

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

L.A.A.S.No. 573 of 2008 and X OBJECTIONS No.21 of 2022

AND

L.A.A.S.No. 29 of 2009 and X OBJECTIONS No.31 of 2022

COMMON JUDGMENT : (per Justice G. Sri Devi)

L.A.A.S.No.573 of 2008 and L.A.A.S.No.29 of 2009 are preferred by the Land Acquisition Officer aggrieved by the judgments and decrees, both dated 10.03.2008 made in O.P.Nos.1198 and 1199 of 2000 respectively, on the file of the I Additional District Judge, Nizamabad (for short "the reference Court"). Challenging the very same judgments and decrees, the claimants therein have filed cross objections Nos.31 and 21 of 2022 respectively. By the impugned judgments, the reference Court while fixing the market value at Rs.220/- per square yard after deducting 1/3rd therefrom towards developmental charges, fixed the net market value at Rs.145/- per square yard.

2. For the purpose of providing house sites to the weaker sections, the Government has acquired the dry land of the claimants i.e., Ac.11.31 ½ guntas in Sy.No.393 (which is subject matter of O.P.No.1198 of 2000) and Ac.9.17 ½ guntas in Sy.No.394/1 (which is

subject matter of O.P.No.1199 of 2000), situated at Bheemgal Village and Mandal, Nizamabad District, by issuing draft notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short "the Act") dated 13.07.1999 followed by draft declaration dated 05.08.1999. After conducting due enquiry, the Land Acquisition Officer has passed an award on 10.03.2000 fixing the market value at Rs.32,000/- per acre. Not satisfied with the compensation determined by the Land Acquisition Officer, the claimants filed protest petition and sought for reference under Section 18 of the Act seeking enhancement of the compensation. The reference Court, by the impugned judgments has enhanced the market value of the acquired property from Rs.32,000/- per acre to Rs.145/- per square yard after deducting 1/3rd towards developmental charges. Aggrieved thereby, the present appeals are filed by the Land Acquisition Officer and the Cross Objections by the claimants.

3. Heard learned Assistant Government Pleader for Appeals and learned counsel for the claimants/cross objectors. Perused the material available on record.

4. Learned Assistant Government Pleader mainly contended that the reference Court without there being any cogent evidence has erroneously enhanced the compensation from Rs.32,000/- per acre to

Rs.145/- per square yard. It is further submitted that even in the absence of any evidence adduced by the claimants such as sketch or map, to establish that the acquired lands are in proximity of lands covered by Exs.A2 and A3, the reference Court has erroneously relied on Exs.A2 and A3 while enhancing the market value of the acquired land.

5. On the otherhand, the learned Counsel appearing on behalf of the claimants/cross objectors contended that although the evidence adduced by P.Ws.1 to 4 and Exs.A1 to A3 would show that the acquired land is having potentiality to be sold at Rs.250/- per square yard, the reference Court has erroneously fixed the market value at Rs.145/- per square yard after deducting developmental charges. It is further contended that the L.A.O. as well as the reference Court have not taken into consideration the existence of Well which is having value of Rs.75,000/- apart from the existing trees.

6. As seen from the record admittedly the land in question was acquired for the purpose of providing house sites to the weaker sections, which itself shows that the land is having potentiality to be used as house sites. As seen from Ex.B1, the L.A.O. while fixing the market value at Rs.32,000/- per acre has taken into consideration two sale transactions which took place within three years prior to the

notification under Section 4 (1) of the Act. Out of the said sale transactions, one relates to agriculture land and the other relates to a piece of land to an extent of 500 square yards. Before the reference Court, the claimants apart from the oral evidence, relied on sale transactions covered by Exs.A2 and A3, which pertaining to the year 1996 and 1995. The sale deed dated 22.04.1996 would show that the land to an extent of 256.66 square yards was sold at Rs.70,600/- which works out to Rs.275/- per square yard. Whereas, the sale deed dated 02.11.1995 would show that the land to an extent of 228 square yards was sold at Rs.50,200/- which works out to Rs.220/- per square yard. In support of the said sale transactions, the vendors therein were also examined. P.W.4, who is the resident of same village, has deposed that the lands were acquired for the purpose of providing house sites to the weaker sections. His evidence further shows that the acquired lands are abutting to the main B.T. Road leading to Nizamabad from Bheemgal. Various Government Offices at Mandal level such as Bus Depot, electrical sub-station and government high school were located in the village. He specifically denied the suggestion in the cross-examination that the acquired lands are not abutting the Bheemgal-Nizamabad road. Therefore, basing on the said evidence, the reference Court having fixed the gross market value at Rs.220/- per square yard, after deducting $1/3^{\text{rd}}$

therefrom towards developmental charges, fixed the net market value at Rs.145/- per square yard. Even though the claimants claimed a sum of Rs.75,000/- contending that a well was existing in the acquired land at the time of acquisition, as they have not produced any evidence in that regard, the L.A.O. as well as the reference Court have rightly rejected the said claim. Since the market value fixed by the reference Court is based on oral and documentary evidence adduced by the parties, this Court is not inclined to disturb the said value fixed by the reference Court.

7. At this stage, the learned counsel for the claimants sought for clarification as to the deduction of the developmental charges from Rs.220/- per square yard since there is an ambiguity to give an impression that the developmental charges to be deducted from Rs.145/- per square yard. The judgment of the reference Court clearly shows that the reference Court having arrived at the gross market value at Rs.220/- per square yard, after deducting $1/3^{\text{rd}}$ therefrom towards developmental charges, has fixed the net market value at Rs.145/- per square yard. Therefore, since Rs.145/- per square yard is arrived at by the reference Court after duly deducting $1/3^{\text{rd}}$ towards developmental charges from Rs.220/- per square yard, no further deduction should be made from Rs.145/- per square yard

and the claimants are entitled to Rs.145/- per square yard together with all statutory benefits.

8. Accordingly, both the appeals as well as the cross objections stand dismissed confirming the market value fixed by the reference Court at Rs.145/- per square yard. The claimants are also entitled to all other statutory benefits. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE G. SRI DEVI

JUSTICE M.G. PRIYADARSINI

01.09.2022
gkv/tsr

