

HON'BLE SRI JUSTICE P.NAVEEN RAO
AND
HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU

LAND ACQUISITION APPEAL SUIT Nos.604 OF 2013 & 36 OF 2014

Date:23.06.2022

LAAS No.604 of 2013

Between:

Rupam S.Patel W/o.Suryakanth C.Patel,
Aged about 58 yrs, Occu : Business,
R/o.H.No.1-8-54/B, Venkatrao Colony,
P.G.Road, Secunderabad

.....Appellant

And

The Special Deputy Collector/Land Acquisition Officer,
International Airport,
Shamshabad, R.R.District. Hyderabad

.....Respondent

The Court made the following:

**HON'BLE SRI JUSTICE P.NAVEEN RAO
AND
HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU**

LAND ACQUISITION APPEAL SUIT Nos.604 OF 2013 & 36 OF 2014

COMMON JUDGMENT : (per Hon'ble Sri Justice P. Naveen Rao)

LAAS No.604 of 2013 is filed by the appellant/claimant and LAAS No.36 of 2014 is filed by the State aggrieved by the order dated 18.06.2013 passed in L.A.O.P.No.189 of 2003 by the I-Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, Hyderabad.

2. These appeals are listed for hearing on 18.04.2022. When the cases were called, there was no representation on behalf of the appellant in LAAS No.604 of 2013 and the appeal was directed to be listed on 14.06.2022. When the appeal was called on 15.06.2022 there was no representation for the appellant in LAAS No.604 of 2013. Therefore, the appeal was directed to be listed under the caption for dismissal on 22.06.2022. On 22.06.2022 also there was no representation. However, though we have heard learned Government Pleader in LAAS No.36 of 2014, to give one more opportunity, LAAS No.604 of 2013 was directed to be listed today. Today also when the matters are called, there is no representation for the appellant in LAAS No.604 of 2013.

3. We have heard learned Government Pleader on the enhancement granted by the reference Court as well as the claim made by the appellants in LAAS No.604 of 2013.

4. On 25.03.2000, the land acquisition notification under Section 4 (1) of the Land Acquisition Act (for short 'the Act') was issued to acquire various extents of land for the purpose of establishing international airport. In these two appeals, we are concerned with land to an extent of Ac.7.14 guntas in Sy.No.16 and land to an extent of Ac.13.20 guntas in Sy.No.19 of Gollapalli Kalan, M.R. Shamshabad. The Land Acquisition Officer (LAO) passed Award on 06.07.2002 determining the compensation payable as Rs.60,000/- per acre and awarded Rs.4,68,900/- towards structures, for horticulture trees Rs.4876/- and for forest trees Rs.29,415/- with all statutory benefits. Not satisfied with the determination of Award by the LAO, the claimants sought reference under Section 18 of the Act. The reference was numbered as L.A.O.P.No.189 of 2003 in the Court of I-Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar. The learned Senior Civil Judge, ordered payment of compensation for the land @ Rs.3,50,000/-, for structures he has increased compensation to Rs.5,85,000/-, for Horticulture trees Rs.6000/- and for Forest trees Rs.50,000/-.

5. Learned Government Pleader submits that enhancement granted by the reference Court is not supported by any evidence on record nor there is discussion about the reasons for increasing the compensation, more particularly, enhancement on structures, horticulture trees and forest trees. He also contends that the reference Court grossly erred in awarding Solatium on the market value from the date of notification till the date of payment. According to learned Government Pleader, Solatium is payable only till the date of Award.

6. We have gone through the order passed by the reference Court. The reference Court determined the compensation on land at Rs.3,50,000/- by adopting the compensation determined by way of settlement between various land owners and the Government, in the same village and in adjoining villages. Since the Government itself has determined compensation, though by way of settlement to the adjoining lands @ Rs.3,50,000/-, we do not see any error in the reference Court granting the said compensation. No cogent evidence is brought by claimants to grant higher compensation. We are of the opinion that the reference Court has arrived at just compensation.

7. According to learned Government Pleader on thorough exercise undertaken by the LAO, the value of structures was determined and there is no basis for the reference Court to enhance the compensation for structures and also for trees. We see merit in the said contention. The discussion in paragraph No.25 of the order is only what the LAO would normally do. The learned Judge only observed that normally, the LAO fixes value at lesser rate and then decides to increase the compensation. There is no discussion as to why such enhancement is granted. No material is placed before the reference Court to show that the structural value is assessed at higher rate than what was determined by the LAO, to come to such conclusion. We therefore, set aside the order of the reference Court to the extent of enhancing compensation on structures, for Horticulture trees and for forest trees.

8. To assess whether there is any basis for the claim, we have also gone through the grounds urged in LAAS No.604 of 2013. Except taking the plea, no material is brought on record to show that enhancement granted by LAO on structures and trees is justified.

9. As per Section 23 (2) of the Act, Solatium is payable from the date of notification till the date of Award only, but erroneously, the reference Court orders payment of Solatium till the date of payment. That being *ex-facie* illegal, we set aside that portion of the order of the reference Court.

10. Hence, LAAS No.36 of 2014 is partly allowed to the extent indicated above, and LAAS No.604 of 2013 is dismissed for non-prosecution. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

SAMBASIVARAO NAIDU,J

23rd June, 2022
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