

THE HON'BLE SRI JUSTICE M. LAXMAN

APPEAL SUIT No.809 OF 1998

JUDGMENT:

1. The present appeal has been directed against the Judgment and decree dated 16.11.1994 passed in O.P.No.150 of 1989 by the Subordinate Judge, Vikarabad, wherein and whereby the market value of the acquired land was fixed @ Rs.100/- per sq. yard. Aggrieved by the same, the present appeal is filed by the appellant herein, who is respondent in the above O.P.

2. The facts which are not in dispute are that the first respondent herein is the owner of house plot to an extent of 309.07 Sq.yards forming part of in Sy.No.28 of Vikarabad Town. The lands were acquired for the purpose of establishing Bus-stand. Notification was issued on 28.01.1987 and the possession of the lands was taken on 18.09.1980 which is prior to notification. An Award was passed on 16.01.1989 fixing the market value @ Rs.55/- per sq. yard as against the claim of first respondent for grant of Rs.400/- per sq. yard. Aggrieved by the same, the first respondent sought reference under Section 18 of the Land Acquisition Act for re-determination of market value of

the land. By impugned order, the Senior Civil Judge, Vikarabad, partly answered the reference by fixing the market value of Rs.100/- per sq. yard. Aggrieved by the same, the present appeal is filed.

3. The contention of the learned Standing Counsel N.Praveen Reddy, representing the appellants, is that the Reference Court has relied upon Exs.A1 & A2 which are centrally located in the in the business locality and such exhibits are not the foundation to fix the market value @ Rs.100/- per sq. yard. According to him, the lands acquired are away to the town and the market value fixed must be based on the market value of the abutting lands prevalent at the relevant point of time. Therefore according to him, the market value fixed is on higher side.

4. There is no representation for the counsel for the first respondent. As seen from the evidence of PW-2, the house-plots are under Exs.A1 and A2 are located in the business locality which is a furlong away from the acquired land. The market value reflected thereunder shows that it is Rs.150/- per sq. yard. Apart from that, the evidence of PW-3 shows that he owns a house-plot in Sy.No.28 at Alibagh and his house-plot was acquired for construction of flyover on railway track and Award

was passed under Ex.A3 fixing the compensation @ Rs.170/- per sq.yard. Unfortunately, the Court below has not taken into consideration of Ex.A3 which refers to the market value pertaining to the survey number in which the first respondent's plot is also located. Exs.A1 & A2 pertain to the plots located one furlong away from the acquired land and they are located in business locality. Such plots were purchased in the year 1985. Now-a-days, the value of the lands situated outside old cities, is high. The market value fixed under Exs.A1 & A2 is Rs.150/- per sq. yard. The present acquisition is in the year 1987. There is two years time gap. If escalation of 10% is added, it comes to Rs.180/- per sq. yard. Ex.A3 Award is also reflecting fixation of market value @ Rs.170/- per sq. yard. The award of such compensation is pertaining to the Sy.No.28 of Alibagh. The acquired plot is abutting to the said acquisition. This would be the proper document to rely upon, but the same was not relied upon. No cross-appeal is filed along with this appeal.

5. In the light of the above evidence, the reasoning adopted by the Reference Court in assessing the market value is very reasonable and the compensation also fixed by taking into account the aspects like time gap and compensation fixed in the same survey number in the previous acquisition and fixed

reasonable compensation. Such finding requires no interference.

6. Learned Standing Counsel for the appellant has submitted that the consequential benefits granted by the Land Acquisition Officer is not in tune with the statutory provision, particularly, the possession of the land was taken anterior to the notification and the benefits. The issue with regard to entitlement of interest prior to the notification has fallen for consideration before a Division Bench of this Court in Appeal Suit No.3864 of 2004 dated 21.03.2022, whereunder it is held that the claimants are entitled for 15% additional interest in the form of rent or damages for use and occupation of the land from the date of invalid possession till the date of advance possession, if any, taken under Section 17 of the Act or to the date of Award, if advance possession is not taken, on the three components i.e., market value, additional market value and solatium.

7. Therefore, the appeal is disposed of in terms of the judgment dated 21.03.2022 in Appeal Suit No.3864 of 2004 as follows:

- (i) The Award of the reference Court with regard to fixation of market value is confirmed;

- (ii) The Award of the reference Court with regard to grant of 12% additional interest from the date of notification till the date of Award is also confirmed;
- (iii) The grant of benefits under Section 34 of the Act by the appellant/Land Acquisition Officer or under Section 28 by the reference Court from the date of taking possession which is prior to the notification is modified by directing to pay such interest from the date on which the Government gets right to take notional possession either under Section 17 or under Section 16 of the Act. In the present case, the respondents/claimants are entitled for such interest from the date of Award till the date of deposit. Such interest is payable on three components i.e., market value, additional market value and solatium;
- (iv) With regard to consequential benefits, the Award of the Reference Court is modified, holding that the respondents/claimants are entitled to 15% additional interest in the form of rent or damages for use and occupation of the land from the date of invalid possession till the date of Award on the three components i.e., market value, additional market value and solatium.

There shall be no order as to costs. As a sequel, pending miscellaneous applications, if any, shall stand closed.

DATE: 21.09.2022
BDR/PSS

M. LAXMAN, J