

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

L.A.A.S.No.178 OF 2007

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/Land Acquisition Officer aggrieved by the order and decree, dated 12.09.2003, passed in O.P.No.36 of 1997 by the learned Senior Civil Judge, Jagtial.

2. Heard the learned Government Pleader for Appeals appearing for the appellant/Land Acquisition Officer and perused the record.

3. Respondent Nos.2 to 4 died *vide* cause title.

4. As seen from the material placed on record, batta due for respondent Nos.1 and 5 to 13.

5. The facts of the case, in brief, are that the lands of the respondents/claimants admeasuring Ac.6-35 guntas in Survey Nos.1057, 1061 and 1139, situated at Mallial Village, were acquired by the Government under the provisions of the Act for

the purpose of providing house sites to backward people and people of other weaker sections of the society. Notification under Section 4(1) of the Act was published in the District Gazette on 07.03.1980. The Land Acquisition Officer, after conducting necessary enquiry, passed an Award on 31.01.1983 granting compensation at Rs.4,000/- per acre for the lands acquired. Not satisfied with the same, the respondents/ claimants sought reference under Section 18 of the Act, which was tried in the subject O.P.No.36 of 1997 by the learned Senior Civil Judge, Jagtial. The Court below, basing on the oral and documentary evidence on record, enhanced the compensation for the acquired lands from Rs.4,000/- per acre to Rs.10,000/- per acre, while confirming the compensation fixed for the Wells in the subject lands. Aggrieved by the same, the present appeal is filed by the appellant/Land Acquisition Officer.

6. The learned Government Pleader for Appeals would submit that the Land Acquisition Officer after conducting necessary enquiry and taking into consideration the sale transactions prevalent as on the date of issuance of notification

under Section 4(1) of the Act, fixed the market value for the acquired lands at Rs.4,000/- per acre, which is just and reasonable. The Court below, by placing reliance over Ex.A2-certified copy of Sale Deed, dated 12.06.1978, whereby an extent of Ac.0-07 guntas of land in Survey No.1023 and an extent of Ac.0-18 guntas of land in Survey No.1024 were sold for Rs.4,500/-, which comes to Rs.7,200/- per acre, fixed the compensation for the subject lands at Rs.10,000/- per acre, which is erroneous. There is no cogent and convincing evidence on record to arrive at a conclusion that the respondents/claimants are entitled to compensation of Rs.10,000/- per acre for the acquired lands. The compensation awarded by the Land Acquisition Officer is just and reasonable and ultimately, prayed to reduce the compensation and allow the appeal, as prayed for.

7. In view of the above, the point that arises for determination in this appeal is:

“Whether the Court below is justified in enhancing the compensation from Rs.4,000/- per acre to Rs.10,000/- per acre for the acquired lands?”

POINT:

8. As seen from the material placed on record, before the Court below, the respondents/claimants to prove their claim that they are entitled to enhancement of compensation examined PWs.1 and 2 and got marked Exs.A1 and A2. On behalf of the appellant/Land Acquisition Officer, RW.1 was examined and Ex.B1 was marked. The Court below, by taking into consideration Ex.A2-sale deed, dated 12.06.1978, by which an extent of Ac.0-07 guntas of land in Survey No.1023 and an extent of Ac.0-18 guntas of land in Survey No.1024 were sold for Rs.4,500/-, which comes to Rs.7,200/- per acre, fixed the compensation for the acquired lands at Rs.10,000/- per acre, observing that the sale made under Ex.A2 was much prior to the date of issuance of notification under Section 4(1) of the Act in the instant case. The Court below had also taken into consideration the time gap between the date of execution of the sale deed under Ex.A2 and the issuance of 4(1) notification in the instant case. Furthermore, the subject lands are acquired for the purpose of providing house sites to the backward people and people of weaker sections of the society. It establishes the nature of the land and its potentiality. Under these

circumstances, the enhancement of compensation from Rs.4,000/- per acre to Rs.10,000/- per acre for the acquired lands with all statutory benefits and interest, is not erroneous and the same is based on the oral and documentary evidence on record. There are no circumstances to vary the same. The appeal is devoid of merit and is liable to be dismissed.

9. Accordingly, the appeal is dismissed confirming the order and decree, dated 12.09.2003, passed in O.P.No.36 of 1997 by the learned Senior Civil Judge, Jagtial.

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: 04.11.2022
MD