

THE HON'BLE JUSTICE G. SRI DEVI

AND

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

L.A.A.S.Nos.477, 478, 481 and 482 of 2012

COMMON JUDGMENT : (per Justice G. Sri Devi)

The *lis* in this batch of Appeals preferred by the Land Acquisition Officer pertain to common acquisition proceedings and therefore, they are heard together and being disposed of by this common judgment.

2. Heard Sri D.Kiran, learned Assistant Government Pleader for the appellant and learned counsel for the respondents. Perused the material available on record.

3. For formation of approach road from Chinnambavi to Veltoor village, the lands of the claimants, to an extent of Ac.2.33 guntas, situated at Koppunoor village of Deepangandla Mandal, were acquired by the Government by issuing draft notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short "the Act"), dated 28.06.2002. However, possession of the land was acquired much prior to the notification i.e., on 29.05.1989. After conducting due enquiry, the L.A.O. has passed an award on 26.08.2005 fixing the market value of the acquired land at Rs.25,000/- per acre. Dissatisfied with the said fixation by the L.A.O., claiming the market value at Rs.80,000/- per acre, the claimants have sought for reference under Section 18 of the

Act to the civil Court. On such reference, the learned Senior Civil Judge, Wanaparthi, by the impugned common order, dated 11.02.2010 fixed the market value of the acquired land at Rs.73,150/- per acre in addition to crop damages at Rs.3,000/- per acre for 13 years. Challenging the same, the L.A.O. preferred the present appeals.

4. Learned Assistant Government Pleader submits that without there being any cogent evidence, the reference Court has erroneously enhanced the market value from Rs.25,000/- to Rs.73,150/- per acre. It is contended that the reference Court ought not to have relied on Ex.P1 for the purpose of enhancing the market value since the lands therein are different from that of the acquired lands and the value fixed therein cannot be applied to the acquired land. It is further contended that inasmuch as the very acquisition is for the purpose of formation of approach road, the reference Court erred in awarding crop damages for 13 years at Rs.3,000/- per annum.

5. On the other hand, learned counsel for the claimants submits that the acquired lands were being irrigated from water drawn from Chinnamaroor lift irrigation project and the claimants used to raise commercial crops such as paddy, cotton, tobacco, groundnut etc. and used to get net income of Rs.15,000/- per acre per annum. It is further contended that as regards the earlier acquisition of the lands in the same village, the reference Court has fixed the market value for the

dry lands at Rs.73,150/- per acre as can be seen from Ex.P1 and therefore, basing on Ex.P1, the reference Court has rightly awarded the compensation. It is lastly contended that inasmuch as the possession of the land was taken way back on 29.05.1989 and as the date of notification under Section 4 (1) of the Act was on 28.06.2002, since there is a gap of 13 years, the reference Court has rightly awarded crop damages at Rs.3,000/- per acre for these 13 years.

6. While enhancing the market value, basing on Ex.P1, the reference Court at para No.11 of the impugned order, has observed as under:-

“11. ... There was acquisition of lands in the very same village i.e., Koppunoor village earlier by the Government in Award No.3/2004. P.W.2 is one of the claimants in the said award. The claimants in Award No.3 of 2004 referred the matter to this court for enhancement of the market value, and the said reference was made by this Court in judgment dated 01.07.2009 in O.P.No.414 of 2008 and batch. P.W.2 deposed that the lands covered under Ex.P1 judgment are similar in fertility and crop pattern to the lands covered in the present case on hand. Even P.W.1 also deposed the same facts. Though R.W.1 stated that opinion sought from the High Court for preparing appeal against the judgment under Ex.P1 and there is lapse of six months till now the Government, did not prefer appeal, this Court having once fixed the market value of the acquired lands in Koppunur village under Ex.P1, this Court does not hesitate to base its decision on Ex.P1 judgment. In this connection this Court relies upon a decision

reported in 2003 (1) 10 Supreme Court cases 529 (Bhim Singh and others v. State of Haryana and another) in which it is held that when the compensation already fixed by the High Court in earlier proceedings and when in one such proceedings Supreme Court already approved the rate fixed, then the best method would be look at the earlier judgments and awards. As per Ex.P1 this Court fixed the market value for the dry lands is at Rs.73,150/-. Hence this Court is inclined to fix the market value at Rs.73,150/- per acre for dry lands even in the present case on hand.”

7. Thus, the reasoning adopted by the reference Court in relying on Ex.P1 for enhancing the market value of the acquired land is in consonance with the principles established by law and therefore, the fixation of the market value by the reference Court needs no interference. However, the possession of the land was taken on 29.05.1989 and whereas the notification was issued on 28.06.2002. In the light of the decisions of the Apex Court in ***R.L.Jain (D) by LRs v. DDA and others***¹ and ***Tahera Khotoon and others v. Revenue Divisional Officer***², the claimant(s) is/are entitled to the benefit of 15% additional interest from the date of taking possession of the land till the date of publication of the preliminary notification. The said fact has not been disputed by the learned Assistant Government Pleader for Appeals. Such being the case, since this Court is inclined to grant additional interest at 15% per annum from the date of possession till the date of notification under Section 4 (1) of the Act, we are of the view

¹ (2004) 4 SCC 79

² (2014) 13 SCC 613

that there is no need to award crop damages at Rs.3,000/- per acre for 13 years.

8. For the foregoing reasons, while confirming the market value enhanced by the reference Court from Rs.25,000/- to Rs.73,150/- per acre in respect of the acquired land, the amount of Rs.3,000/- per acre for 13 years granted by the reference Court towards crop damages is hereby set aside. However, claimant(s) is/are entitled for additional interest at 15% from the date of taking over of actual possession till the date of publication of notification under Section 4 (1) of the Act. Further, the claimant(s) is/are also entitled for all other statutory benefits as per the amended Act.

9. Accordingly, all the appeals are allowed in part to the extent indicated above. No costs.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE G. SRI DEVI

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20.09.2022
gkv/tsr

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