

THE HON'BLE JUSTICE G. SRI DEVI

AND

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

L.A.A.S.No.790 of 2007

JUDGMENT : (per Justice G. Sri Devi)

This appeal is preferred by the claimants seeking enhancement of compensation awarded by the Senior Civil Judge at Kamareddy (hereinafter referred to as "the reference Court") made in O.P.No.10 of 2003, dated 06.09.2006. By the impugned award, the reference Court has enhanced the market value from Rs.12,500/- to Rs.15,000/- per acre.

2. Heard learned counsel for the claimants and the learned Assistant Government Pleader for the respondent. Perused the material available on record.

3. The land of the claimants situated at Thimmareddy village, Yellareddy Mandal was acquired by the Government for construction of reservoir (protect) across Kalyani Vagu, by issuing draft notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred as 'the Act') on 01-07-1997 by invoking urgency clause. After due enquiry, the Land Acquisition Officer has passed an Award on 23.7.1998 fixing the market value of the acquired land at Rs.12,500/- per acre. Having received the compensation under protest, the

claimants sought for reference to civil Court under Section 18 of the Act seeking enhancement. The reference Court after considering the oral and documentary evidence brought on record has enhanced the market value from Rs.12,500/- to Rs.15,000/- per acre. Not satisfied with the said enhancement, the claimants have approached this Court with the present appeal.

The main contention of the learned counsel for the appellants/claimants is that the reference Court ought to have fixed the market value of the acquired land not less than Rs.67,000/- per acre considering the sale transactions covered by Exs.A6, A29 and A30. It is his further contention that the reference Court ought to have seen that the existence of electricity supply (Ex.A11) was very much provided for lift irrigation through the current motor through bore well, sump and pump house and as such, the reference Court ought to have considered the claim regarding the damaged properties (fish pond, cattle shed, sump, pump house, pacca pipelines, watchman quarter and other RCC pacca construction) which are more specifically shown in Exs.A3 and A4, supported by the evidence of PWs.1 to 3.

On the other hand, the learned Assistant Government Pleader has contended that the Land Acquisition Officer duly taken into consideration the prevailing sale statistics has fixed the market value of the acquired land at Rs.12,500/- per acre, and the reference Court

duly considering the sale statistics shown at serial number 57, has sufficiently enhanced the market value to Rs.15,000/- per acre and therefore, the said order needs no interference by this Court.

Before the reference Court, the claimants sought for enhancement of the market value not less than Rs.75,000/- per acre. In support of their claim, the claimants have examined PWs. 1 to 4 apart from marking Exs.A1 to A30. Although the claimants have claimed that there were structures i.e., fish ponds, cattle sheds, watchman quarters etc., in the acquired land, as rightly observed by the reference Court, the claimant No.1 did not mention all the said structures as were existing in the acquired land. Even in the objections filed before the Revenue Divisional Officer seeking reference to the civil Court, no such reference was made as to the structures. In as much as no proof whatsoever was adduced by the claimants regarding the said structures, the reference Court has rightly rejected the said claim, which needs no interference by this Court.

As regards the enhancement of compensation fixed by the reference Court, admittedly, the acquired lands are dry lands. The Land Acquisition Officer fixed the market value at Rs.12,500/- taking into consideration comparable sales preceding three years from 07.03.1994 to 06.09.2007. The Land Acquisition Officer while relying on sale transactions shown at serial numbers 33 and 34, has fixed the

market value at Rs.12,500/- per acre. However, the reference Court basing on sale statistics reflected it serial number 57, has fixed the market value at Rs.15,000/- per acre. It is well settled law that when different comparable sale transactions are available, the highest sale consideration among them needs to be taken into consideration. Out of the sale statistics relied on by the Land Acquisition officer, the sales statistics shown at serial number 25 and 26 are appropriate comparable sale transaction since the sale statistics shown at serial number 25 and 26 would reflect that the dry land in survey numbers 586/AA and 650/AA were sold at Rs.27,000/- per acre. Therefore, relying on the said sale statistics, this Court is inclined to fix the market value of the acquired land at Rs.27,000/- per acre.

Accordingly, the appeal is allowed in part fixing the market value of the acquired land at Rs.27,000/- per acre. The claimants are entitled for all the statutory benefits as per the amended Act. No order as to costs.

Miscellaneous petitions, if any, shall stand closed.

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