IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER
AND
THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

LAND ACQUISITION FIRST APPEAL NO: 707 OF 2010

Appeal under Section 54 of Land Acquisition Act, against the order and Decree dated 30-07-2010 made in O.P. No. 55 of 2000, on the file of the court of the Senior Civil Judge at Suryapet.

Between:

1. The State of Andhra Pradesh, Land Acquisition Officer rep by Revenue Divisional Officer O/o.Suryapet.
2. The Secretary, Agricultural Market Committee O/o.Kodad, Nalgonda District.

...APPELLANT/REFERRING OFFICER

AND

1. Sri Rama Rice and Groundnut Oil Mill, Kodada rep by its Managing Partners 1. Kothamasu Bhaskar Rao 2. Penugonda Rama Mohana Rao R/o.Kodada.
2. Sri Gopala Krishna Rice and Groundnut Oil Mill, Kodada rep by its Managing Partners: 1.Oruganti Venkateshwarlu 2] Nagulabandi Ranga

...RESPONDENTS/CLAIMANTS

Counsel for the Appellants: GP FOR APPEALS

Counsel for the Respondent: M/s MOHD MOINUDDIN (NOT APPEARED)

The Court made the following:

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

L.A.A.S.No.707 OF 2010

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 appellants aggrieved by the order and decree, dated 30.07.2010, passed in O.P.No.55 of 2000 by the learned Senior Civil Judge, Suryapet.

2. Heard the learned Government Pleader for Appeals appearing for the appellants and perused the record.

3. There is no representation for the respondents-claimants.

4. The facts of the case, in brief, are that the lands of the respondents-claimants admeasuring Ac.2-04 guntas in Survey No.1038/2, situated at Kodad Town and Mandal, were acquired by the Government under the provisions of the Act for the purpose of establishment of cattle market at Kodad. Notification under Section 4(1) of the Act was issued on 31.03.1977. The Land Acquisition Officer, after conducting necessary enquiry, passed an Award on 22.09.1986 granting

compensation at Rs.17,000/- 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.55 of 2000 by the learned Senior Civil Judge, Suryapet. The Court below, basing on the oral and documentary evidence on record, enhanced the compensation for the acquired lands from Rs.17,000/- per acre to Rs.1,93,600/- per acre, besides granting 30% solatium and 12% additional market value from the date of notification till the date of Award or taking possession, whichever is earlier, with interest at 9% for a period of one year from the date of taking possession and thereafter, at 15% per annum till the date of payment. Aggrieved by the same, the present appeal is filed by the appellants.

5. 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.17,000/- per acre, which is just and

reasonable. The reference Court, without there being any single document to show that there is gradual increase in the market value of the lands in the vicinity and that the respondents-claimants are entitled to compensation at Rs.40/- per Square Yard, had erroneously fixed the compensation for the acquired lands at Rs.1,93,600/- per acre. The lands acquired are agricultural lands and are situated in a remote place. They are not situated in a commercial area. The lands covered under Exs.A1 to A6 are only small extents. Taking these circumstances into consideration, the reference Court ought not have enhanced the market value for the acquired lands from Rs.17,000/- per acre to Rs.1,93,600/- per acre. There is no cogent and convincing evidence on record to arrive at a conclusion that the respondents-claimants are entitled to compensation of Rs.1,93,600/- per acre for the acquired lands. The compensation awarded by the Land Acquisition Officer is just and reasonable. Further, the reference Court was pleased to grant interest at 9% for a period of one year from the date of taking possession and thereafter, at 15% per annum till the date of payment, which is excessive and ultimately, prayed to

set aside the impugned order and decree and allow the appeal, as prayed for.

6. In view of the above, the points that arise for determination in this appeal are:

> "**1.** Whether the enhancement of compensation made by the reference Court from Rs.17,000/- per acre to Rs.1,93,600/- per acre for the acquired lands is justified?
>
> **2.** Whether the impugned order and decree, dated 30.07.2010, passed in O.P.No.55 of 2000 by the learned Senior Civil Judge, Suryapet, are liable to be set aside?"

POINTS:

7. As seen from the material placed on record, before the reference Court, the respondents-claimants to prove their claim that they are entitled to enhancement of compensation examined PWs.1 to 7 and got marked Exs.A1 to A16. On behalf of the appellants, RWs.1 to 3 were examined and Ex.B1 was marked. PWs.1 and 2 have categorically stated in their evidence that the acquired lands are suitable for house sites and that prior to the issuance of notification under Section 4(1) of the Act, the appellant No.2-agricultural market committee itself has sold house plots and commercial plots on Square Yard basis under Exs.A1 to A6 and that the lands covered under

Exs.A1 to A6 are adjacent to the lands acquired. As per Exs.A1 and A2-registerd sale deeds, dated 17.11.1972, Exs.A3 to A5-registered sale deeds, dated 18.11.1972, and Ex.A6-registered sale deed, dated 25.01.1973, the lands therein were sold at a price ranging between Rs.28/- and Rs.32/- per Square Yard. Further, under Ex.A7-registered sale deed, dated 14.03.1973, Ex.A8-registered sale deed, dated 29.06.1974, Ex.A9-registered sale deed, dated 22.01.1975, and Ex.A10-registered sale deed, dated 21.07.1975, the lands therein were sold at a price ranging between Rs.30/- and Rs.40/- per Square Yard. The lands covered under Exs.A7 to A10 are also near to the lands acquired. Further, RW.2-Revenue Divisional Officer, Suryapet, in his cross-examination, has categorically stated that the acquired lands are abutting the road leading from Kodad to Huzurnagar. There are about five to six hospitals, two cinema halls, medical shops and diagnostic centers at Huzurnagar Cross Road. He further stated that as on the date of acquisition, the acquired lands are not agricultural lands and they were being made into plots and the lands in the vicinity are house sites. Further, the Land Acquisition Officer in the Award itself had clearly mentioned that the acquired lands are

situated adjacent to a rice mill and the lands in the vicinity are sold for house site purpose. The reference Court, taking into consideration the oral and documentary evidence on record, held that the acquired land is to be treated as a land suitable for house sites and compensation is required to be paid for the acquired lands on Square Yard basis but not on acreage basis. Further, the reference Court, by taking into consideration Ex.A8-registered sale deed, dated 29.06.1974 and Ex.A10-registered sale deed, dated 21.07.1975, whereby the lands therein were sold for Rs.40/- per Square Yard and Rs.38/- per Square Yard, respectively, and Exs.A11 and A13 to A16, which indicate increase in the value of the lands, fixed the market value of the acquired lands at Rs.60/- per Square Yard. Though PW.7 has stated that the market value of the lands in the vicinity is Rs.1,300/- per Square Yard as on the date of issuance of 4(1) notification, as no single document is filed to substantiate the same, the same was not taken into consideration by the reference Court. Since the compensation for the acquired lands is to be awarded in Square Yard basis, the reference Court deducted 1/3rd of the market value for development of the acquired lands and arrived the

compensation at Rs.40/- per Square Yard and accordingly, granted compensation at Rs.1,93,600/- per acre (Rs.40/- x 4840 Square Yards) for the acquired lands. The conclusions reached by the reference Court are based on the oral and documentary evidence on record. The reference Court had also taken into consideration the locality of the acquired lands i.e., abutting the main road leading from Kodad to Huzurnagar and the development that took place in the vicinity of the acquired lands. Furthermore, the subject lands were acquired for the purpose of construction of cattle market. Under these circumstances, the enhancement of compensation from Rs.17,000/- per acre to Rs.1,93,600/- per acre is not erroneous and the same is based on the oral and documentary evidence on record. There are no circumstances to vary the same. Further, there is no dispute with regard to the grant of statutory benefits.

8. With regard to grant of interest, the reference Court has granted interest at 9% for a period of one year from the date of taking possession and thereafter, at 15% per annum till the date of payment. The reference Court is justified in granting

interest at 9% for a period of one year commencing from the date of taking possession. But, thereafter, it granted interest at 15% per annum, which is erroneous. As per the settled legal position, the respondents-claimants are entitled to interest at 12% per annum thereafter. Therefore, the respondents-claimants are entitled to interest at 9% for a period of one year from the date of taking possession and thereafter, at 12% per annum till the date of payment.

9. With the above modification in the rate of interest, the appeal is dismissed.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

Sd/- C. V. MALLIKARJUNA VARMA
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

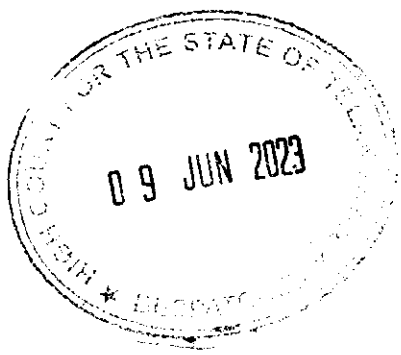
1. The Senior Civil Judge at Suryapet District
2. Two CCs to GP FOR APPEALS [OPUC]
3. One CC to SRI. MOHD MOINUDDIN Advocate [OPUC]
4. Two CD Copies

DL

PMG.

HIGH COURT

DATED:03/11/2022



ORDER

LAAS.No.707 of 2010

APPEAL IS DISMISSED

PMG.
19/8/23

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY ,THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

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AND
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Appeal under Section 54 of Land Acquisition Act, against the order and Decree dated 30-07-2010 made in O.P. No. 55 of 2000, on the file of the court of the Senior Civil Judge at Suryapet.

ORDER: This Appeal coming on for hearing and upon perusing the ground of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of GP FOR APPEALS, for the Appellants and there was no representation to the Counsel for Respondents

This Court Doth Order and Decree as follows:

1. That the LAAS Appeal be and hereby is dismissed with following modifications;
2. That the Respondents-Claimants are entitled to interest at 9% per annum for a period of one year from the date of taking possession and thereafter, at 12% per annum till the date of payment; and
3. That there shall be no order as to cost in this appeal

Sd/- C. V. MALLIKARJUNA VARMA
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Senior Civil Judge at Suryapet
2. Two CD Copies

PMC.

HIGH COURT

DATED:03/11/2022

DECREE

LAAS.No.707 of 2010

APPEAL IS DISMISSED

19/5/23