

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

L.A.A.S.No.286 OF 2016

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 Land Acquisition Officer/Mandal Revenue Officer, Kodimyal, aggrieved by the order and decree, dated 11.11.2013, passed in L.A.O.P.No.28 of 2005 by the learned Senior Civil Judge, Jagtial.

2. Heard both sides and perused the record.

3. The facts of the case, in brief, are that the lands of the respondents/claimants admeasuring Acs.43.39 guntas of dry land in various survey numbers situated at Potharam and Konapur Villages of Kodimyal Mandal, Karimnagar District, were acquired by the Government under the provisions of the Act for the purpose of re-restoration of L.T. Potharam pedda cheruvu, Potharam and Konapur Villages. Notification under Section 4(1) of the Act was issued on 29.11.1990. The Land Acquisition Officer, after conducting necessary enquiry, passed an Award on 29.06.2002 granting compensation @ Rs.6,000/- per acre with all statutory benefits. Not satisfied

with the same, the respondents/claimants sought reference under Section 18 of the Act, which was tried in L.A.O.P.No.28 of 2005 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 land from Rs.6,000/- per acre to Rs.30,000/- per acre with all statutory benefits. Aggrieved by the same, the present appeal is filed by the Land Acquisition Officer/Mandal Revenue Officer, Kodimyal.

4. The learned Government Pleader for Appeals would submit that the subject land was acquired for the purpose of re-restoration of L.T. Potharam pedda cheruvu, Potharam and Konapur villages for the benefit of thousands of individuals. The Land Acquisition Officer after due enquiry was pleased to grant fair and reasonable compensation @ Rs.6,000/- per acre with all statutory benefits and interest thereon. However, without there being any documentary and substantial evidence, the Court below was pleased to enhance the compensation to Rs.30,000/- per acre. There is no legally acceptable evidence or sale transactions to grant compensation @ Rs.30,000/- per acre. The Court below

ought not have placed reliance over Ex.A1-sale deed dated 14.10.1987 and enhanced the compensation. There are several transactions in the subject village to show that the market value of the land was Rs.6,000/- per acre on the date of notification. The Court below without considering the same erroneously enhanced the compensation to Rs.30,000/- per acre. The land acquired is a barren land. The land owners were not cultivating the same. This fact was also not taken into consideration. Therefore, there is no justification in enhancing the compensation and ultimately prayed to set aside the impugned order and decree and allow the appeal as prayed for.

5. On the other hand, learned counsel for the respondents/claimants would contend that the subject land is being used to cultivate commercial crops. The market value of the land as on the date of notification was Rs.60,000/- per acre. Against the claim of Rs.60,000/- per acre, the Land Acquisition Officer placing reliance over Ex.A1 was pleased to enhance the compensation from Rs.6,000/- to Rs.30,000/- per acre. Under Ex.A1, there is a transaction alienating one acre of land @ Rs.30,000/- per acre. So, the same was

substantiated by the land owners by leading cogent and convincing evidence. Moreover, it is a public document. The said document is much prior to the subject notification as well as acquisition. Therefore, placing reliance over the said document, the Court below enhanced the compensation to Rs.30,000/- per acre with all statutory benefits and interest thereon, which is just and reasonable. There are no circumstances/grounds to interfere with the impugned order and decree and ultimately prayed to dismiss the appeal.

6. In view of the submissions made by both sides, the point that arises for determination in this appeal is:

“Whether the impugned order and decree, dated 11.11.2013, passed in O.P.No.28 of 2005 by the Senior Civil Judge, Jagtial, enhancing the compensation from Rs.6,000/- per acre to Rs.30,000/- per acre with all statutory benefits and interest thereon are liable to be set aside?”

POINT:

7. As seen from the material placed on record, the subject land was acquired for the purpose of re-restoration of L.T. Potharam pedda cheruvu, Potharam and Konapur Villages. Though 4(1) notification was issued on 29.11.1990, the possession of the subject land was taken in advance, i.e., on 01.11.1988. Thereafter, the subject Award, dated 29.06.2002

was passed granting compensation of Rs.6,000/- per acre for the acquired lands with all statutory benefits and interest thereon apart from granting compensation for the wells, crops and trees. The respondents/land owners have claimed the compensation @ Rs.60,000/- per acre. However, the Court below having placed reliance over Ex.A1-sale deed, dated 14.10.1987, wherein one acre of land situated at same village was sold for Rs.30,000/-, enhanced the compensation @ Rs.30,000/- per acre. The transaction made under Ex.A1 is much prior to taking over the possession of the subject land as well as issuance of notification under Section 4(1) of the Act. There are several documents to show the transactions in respect of the lands alienated in the same village, where the market value is not much more, particularly, Ex.B2-sale deed dated 12.06.1989, wherein the agricultural land was sold @ Rs.6,000/- per acre. Learned Government Pleader for Appeals by placing reliance over Ex.B2-sale deed sought to set aside the impugned order. The fact remains that generally, to avoid stamp duty and registration fee, the people will not exhibit the correct market value of the land in the sale deeds. Therefore,

it is not safe to place reliance over Ex.B2 for determination of compensation payable to the respondents/claimants.

8. The learned Government Pleader for Appeals would submit that the subject land is barren land. It is borne by record that in the subject land, there are 19 agriculture wells and 41 trees. There is no dispute with regard to the same. The compensation in respect of the agriculture wells and trees present in the subject land was determined and paid. It clearly demonstrates that the subject land is fertile land and not a barren land. There is evidence of P.W.1 besides P.Ws.2 to 4 that they used to raise commercial crops in the subject land and used to get income of Rs.25,000/- per acre per annum. When there are wells and trees in the subject land, the owner will get good income. There is also evidence that the subject land is situated nearby the village and in a residential area. Certainly, it will have great value. The Court below by taking into consideration the market value of the lands in the vicinity at the time of issuance of notification under Section 4(1) of the Land Acquisition Act and that possession of subject land was taken prior to 4(1) notification and placing reliance over the sale consideration made under

Ex.A1 which is much prior to the date of issuance of 4(1) notification, determined the compensation payable at Rs.30,000/- per acre by discarding the claim of respondents/claimants @ Rs.60,000/- per acre. As there was no registered document to show that the market value of the land @ Rs.60,000/- per acre, considering Ex.A1 and other mitigating circumstances, awarding compensation @ Rs.30,000/- per acre by the Court below, cannot be said to be excessive. Under these circumstances, none of the contentions raised on behalf of the appellant/Land Acquisition Officer merit consideration. The appeal is devoid of merit and is liable to be dismissed.

9. Accordingly, the appeal is dismissed confirming the order and decree, dated 11.11.2013, passed in L.A.O.P.No.28 of 2005 by the 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 BHEEMPAKA, J

Date: 16.11.2022

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