

(2013) 08 AP CK 0006

Andhra Pradesh High Court

Case No: L.A.A.S. No"s. 151, 255, 321 and 350 of 2007

The Spl. Deputy Collector, Land
Acquisition and Rehabilitation

APPELLANT

Vs

K. Shobha Rani

RESPONDENT

Date of Decision: Aug. 16, 2013

Citation: (2014) 1 ALD 435 : (2013) 6 ALT 37 : (2013) ALT(Rev) 433

Hon'ble Judges: K.C. Bhanu, J; Challa Kodanda Ram, J

Bench: Division Bench

Advocate: K. Rathangapani Reddy, for the Respondent

Judgement

Challa Kodanda Ram, J.

The Appeal Nos. 151 and 255 of 2007 have been filed by the Referring Officer and the Appeal Nos. 321 and 350 of 2007 have been filed by the Claimants challenging the Common Order and Decree dated 24.01.2006 passed by the learned Principal Senior Civil Judge, Kurnool, in O.P. Nos. 55 and 56 of 2003. The impugned Order was passed on a reference to the Court u/s 18 of the Land Acquisition Act, 1894, (for short "the Act").

1) Since the judgment challenged in all the appeals is one and same, they have been heard together and are being disposed of by this common judgment. For the sake of convenience the appellants in L.A.A.S. Nos. 321 and 350 of 2007 herein are referred to as appellants, and the appellant in L.A.A.S. Nos. 151 and 255 of 2007 herein is referred to as respondent.

2) The appellants were the owners of the land, an extent of Ac. 0-20 cents each, situated in Sy. Nos. 113/2A2B and 113/3A of Sunkesula Village. The same was acquired by the Government for the purpose of formation of approach road from Sunkesula Naguladinne road to Thungabadra Barrage by issuing a Notification u/s 4(1) of the Act, dated 24.01.2003, which was finally published on 28.01.2003. The Land Acquisition Officer had determined the market value at the rate of Rs. 95,000/-

per acre. Being not satisfied with the compensation awarded by the Land Acquisition Officer, on claimants' applications matters were referred to the Principal Senior Civil Judge Court, Kunrool and the cases were numbered as L.A.O.P. Nos. 55 and 56 of 2003.

3) On behalf of the claimants, the claimant in L.A.O.P. No. 56 of 2003 was examined as R.W. 1 and two others were examined as R.Ws. 2 and 3 and got marked Exs. B.1 to B.4. On behalf of the Referring Officer, the Land Acquisition Officer himself was examined as P.W. 1 and got marked Exs. A.1 and A.2, besides Exs. X. 1 to X.4 were marked.

4) The Learned counsel for the appellants-claimants contended that the trial Court has failed to appreciate the fact that the acquired land was situated in a commercial locality in fixing the value of the land. It is further contended that the trial Court has failed to appreciate the evidence on record, which clinchingly proved that the land in the vicinity was sold at Rs. 6,000/- per cent in 2002 itself and further submitted that as the acquired land has commercial potentiality and it fetches not less than Rs. 10,000/-per cent.

5) On the other hand the learned Government Pleader would submit that the trial Court erred in enhancing the compensation amount for Ac. 0-20 cents from Rs. 19,000/- to Rs. 41,560/- by relying on Ex. B.3-Registered Sale Deed dt. 03.04.2001. Further submitted that the appellants have not discharged their burden with respect to proving the market value of the acquired lands as on the date of Notification u/s 4(1) of the Act. Hence, prays for setting aside the impugned judgment passed by the trial Court.

6) The learned Judge of the trial Court after an elaborate enquiry had taken into consideration of Ex. B.3 Registered Sale Deed, dated 03.04.2001 and enhanced the compensation from Rs. 95,000/- to Rs. 2,07,811/- per acre with all statutory benefits.

7) As seen from the evidence of P.W. 1-Referring Officer, who deposed that his predecessor in office after proper enquiry passed Award Nos. 1 to 6 of 1998, dated 30.03.1998 and Award No. 1 of 1999, dated 08.02.1999, by fixing the market value of the acquired lands at Rs. 85,000/- and Rs. 95,000/- per acre respectively, and subsequently the lands covered in Award No. 2 of 2003, dated 02.03.2003 with respect to the lands covered in Sy. No. 113/2A2B were acquired, and after his discrete enquiries and since there is no water facility to the acquired lands, he fixed the market value at Rs. 95,000/- per acre, which reflects the true market value as on the date of notification.

8) Whereas, it is the evidence of R.W. 1-Claimant in O.P. No. 56 of 2003 that the rate fixed by the Land Acquisition Officer was Rs. 95,000/- per acre, which was too low than the prevailing rate of market value by the date of Notification. He further deposed that the Land Acquisition Officer fixed the market value for the lands acquired in Sy. No. 73/1A1 and others in Award No. 6 of 1998 at Rs. 85,000/- per

acre, but on a reference, the learned District Judge, Kurnool has fixed the market value for the acquired lands at Rs. 1,76,562/- per acre, which is evident from Exs. B.1 and B.2, which are certified copies of decrees in O.P. No. 1100 of 1998 and L.A.O.P. No. 1101 of 1998 respectively. He further deposed that he purchased Ac. 0-28 cents of land situated in Sy. No. 113/4A2 for Rs. 50,000/-, under Ex. B.3 Registered Sale Deed dt. 03.04.2001. He also referred to various sale transactions that have taken place in the vicinity.

9) In order to prove the land cost, the claimants got examined R.Ws. 2 and 3. As seen from the evidence of R.W. 2 that he purchased Ac. 0-05 cents of site in Sy. No. 113/A2 from the claimants on 10.01.2002 under Ex. X.1 agreement of sale at the rate of Rs. 6,000/- per cent, which was later registered under Ex. X.2 on 24.07.2003.

10) R.W. 3 deposed that his wife purchased Ac. 0-03 cents of site in Sy. No. 113/2A2 from the claimant in O.P. No. 56/2003 at the rate of Rs. 6,000/- per cent under Ex. X.3 agreement of sale dt. 20.01.2002, which was registered under Ex. X.4 registered sale deed 22.04.2004.

11) Though the appellants-claimants relied on Exs. X.1 to X.4, but the trial Court has rejected the same on the ground that they were executed subsequent to issuance of Notification u/s 4(1) of the Act, and also not taken into consideration Ex. B.4-xerox copy of registration extract, dt. 24.05.1996, as the original was not produced before the trial Court.

12) It is in the evidence of R.W. 1-Referring Officer that the land under acquisition is adjacent to the tar road between Kurnool and Naguladinne. Under Ex. B.3 dated 03.04.2001 an extent of Ac. 0-28 cents was sold, which sale transaction is about two years prior to the land acquisition in issue, at Rs. 1,78,571/- per acre. Likewise, Exs. B.1 and B.2 are the orders in O.P. Nos. 1100 of 1998 and 1101 of 1998, whereunder also in similar lands situated in the same locality the court had enhanced the compensation to Rs. 1,76,562/- per acre as against the amount granted by the Land Acquisition Officer. It is in the evidence of P.Ws. 1 and 2 that the land under acquisition has the same potentiality as that of the land in Ex. B.3 and also the lands covered in Exs. B.1 and B.2. This aspect of the matter was not controverted by the Land Acquisition Officer. Considering this aspect, the learned Judge of the trial Court by applying 9% towards escalation had granted compensation at the rate of Rs. 2,07,811/- per acre.

13) The learned counsel for the appellants had relied on the judgments reported in [Ashrafi and Others Vs. State of Haryana and Others](#), and [Om Prakash \(D\) by Lrs. and Others Vs. Union of India \(UOI\) and Another](#), and prayed for grant of 12% escalation, and he further submits that in Ashrafi case (1st supra) 12% escalation per annum compounded, was granted by the Supreme Court. But, we are unable to agree with the submission of the learned counsel for the claimants as the judgments referred to therein are on appreciation of facts of the case and more importantly, as a matter

of fact, the Court found that the lands under acquisition had the potentiality as found in the said case. However, we cannot lose sight of the fact that the Hon"ble Supreme Court has been considering the enhanced compensation by taking judicial notice of the escalating prices in the land values, especially after 1998-2000. Keeping this aspect in mind and in the facts of the case, we consider it appropriate to grant compensation at Rs. 2,15,000/- per acre. Accordingly, the appellants-claimants are entitled to compensation at Rs. 2,15,000/-per acre with all statutory benefits.

14) In view of the law laid down in [Sunder Vs. Union of India](#), which is subsequently followed in [Nagpur Improvement Trust Vs. Vasantrao and Others and Jaswantibai and Others](#), , the respondents-claimants are entitled to be paid interest on the entire compensation which includes additional market value payable u/s 23(1-A) of the Act and solatium. So far as 12% of additional market value is concerned, the respondents-claimants are entitled for the 12% Additional Market Value and solatium in terms of Section 23(1-A) of the Act, from the date of Section 4(1) Notification.

15) Accordingly, the appeals filed by the claimants viz., L.A.A.S. No. 321 and 350 of 2007 are partly allowed, while dismissing the appeals filed by the Land Acquisition Officer viz., L.A.A.S. Nos. 151 and 255 of 2007. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed.