

(1993) 04 AP CK 0011
Andhra Pradesh High Court
Case No: A.S. No. 406 of 1988

Sidagam Surya Rao

APPELLANT

Vs

The Land Acquisition Officer and
Spl. Dy. Collector,
L.A./Y.R.P./Unit-I

RESPONDENT

Date of Decision: April 7, 1993

Acts Referred:

- Land Acquisition Act, 1894 - Section 23

Citation: (1993) 2 ALT 269 : (1993) 2 APLJ 77

Hon'ble Judges: G.V.L. Narasimha Rao, J; G. Radhakrishna Rao, J

Bench: Division Bench

Advocate: M.S.K. Sastry and Ch. Dhanamjaya, for the Appellant; G.P., for the Respondent

Judgement

G. Radhakrishna Rao, J.

This is an appeal preferred by the claimant against the judgment of the II Additional District Judge, East Godavari at Rajmundry dated 11-9-1987 passed in O.P. No. 596 of 1985.

2. An extent of Ac.6-39 cents of dry land, situate in R.S. No. 22 of Kattumilli village of Yellavaram taluk was acquired for formation of Y.R. Project. The said land is situate in an agency area. Section 4(1) notification was published in the A.P. Gazette on 27-12-1980. The Land. Acquisition Officer after taking into consideration the potentiality of the land and other relevant features, fixed the market value of the land at Rs. 3,000/- per acre, having been dissatisfied with the amount of compensation awarded by the Land Acquisition Officer, the matter was referred to the lower court u/s 18 of the Land Acquisition Act, at the instance of the claimant. The matter came up before the learned II Addl. District Judge, Rajahmundry. P.Ws. 1 to 4 were examined and Exs. A-1 and A-2 were got marked on behalf of the claimant in the lower court while on behalf of the referring officer R.Ws.1 and 2 were

examined and Exs.B-1 to B-6 were marked. Exs.X-1 to X-3 were also marked by the Court. Ultimately the learned Judge after taking into consideration the entire material on record fixed the market value of the land at Rs. 7,000/- per acre. He has also granted Rs. 2,000/- for the well in the acquired land. Having been aggrieved by the said order of the learned Additional District Judge, the claimant has preferred this appeal. Even though the appellant has claimed the market value at the rate of Rs. 25,000/- per acre in the lower court, he has restricted it to Rs. 13,500/- per acre and claimed a total compensation of Rs. 86,265/-.

3. It is contended by the learned counsel for the appellant that in an agency area there would not be any sale deeds as sale transactions are prohibited in an agency area and so the sale deeds Exs. A-1 and A-2, which are in respect of lands situate at a distance of only two kilometres away, ought to have been taken into consideration by the lower court for fixing up the compensation.

4. There is no dispute with regard to the fact that the land under acquisition is in an agency area. Ex.A-1 is a certified copy of the sale deed dated 24-9-1979 relating to a sale prior to the draft notification in this case and Ex.A-2 sale transaction is subsequent to the draft notification. The acquired land is at a distance of 2 Kms. from the lands covered by Exs. A-1 and A-2. So Exs.A-1 and A-2 cannot be taken for comparing the value of the land under acquisition. The lower court fixed the compensation at the rate of Rs. 7,000/- taking into account the estimate made by the Panchayatdars. In fact the Panchayatdars consisting of Village Officers, Sarpanch and two elders of the village estimated the market value at Rs. 7,500/- per acre. The acquired lands are cultivable dry lands. Taking into account this fact also and the fact that it is a compulsory acquisition and the claimant is parting with his land, we feel that the just and reasonable compensation in the circumstances would be at the rate of Rs. 8,000/- per acre. P.W.1 has stated that he dug a well and he was raising plantains etc. He has not produced any evidence to that effect that he raised plantains. In agency areas the prices will be static as there is a prohibition for sale of lands, to non-tribals. It is very difficult to get any comparable sale deed for the purpose of determining the value. If that is not available, the only other method available Will be capitalisation. Even for capitalisation also exaggerated income that is being claimed cannot be accepted as in agency area the facilities to get regular water source is very difficult. The modern methods of cultivation are also not adopted by them as they are tribals and illiterates. If the lands are allowed to be sold freely, then there will be increase in the market value. However, taking into account the circumstances of this case, we feel that the market value of the lands under acquisition can be fixed at Rs. 8,000/- per acre, instead of Rs. 7,000/- per acre as fixed by the lower Court. There is no dispute with regard to the compensation granted for the well.

5. In the result the appeal is partly allowed and the market value of the land under acquisition is fixed at Rs. 8,000/- per acre. Since the award is of the year 1983, the

claimant is entitled to all the additional benefits under the Land Acquisition Act.
There will be no order as to costs in this appeal.