
(1997) 06 AP CK 0047
In the Andhra Pradesh High Court
Case No : Appeal No. 2544 of 1986

Kota Narasimham and Others

APPELLANT

Vs

Referring Officer (R.D.O.)

RESPONDENT

Date of Decision : 24-06-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2), 28

Citation : (1997) 5 ALT 279

Hon'ble Judges : P. Venkatarama Reddi, J; B.V. Ranga Raju, J

Bench : Division Bench

Advocate : M.V.S. Suresh Kumar, for the Appellant; Govt. Pleader, for the Respondent

Judgement

P. Venkatarama Reddy, J.—This appeal u/s 54 of the Land Acquisition Act (for short "the Act") is preferred by the claimants-land holders, not being satisfied with the enhancement of compensation to the extent of Rs. 8,000/- per acre as against Rs. 3,500/- awarded by the Land Acquisition Officer. An extent of Ac. 4.60 cents was acquired by means of a notification published on 24-3-1981 u/s 4(1) of the Act. The possession of the land was taken on 21-6-1981 and award was passed on 30-3-1982 by the Revenue Divisional Officer, Kandukur, who was the Land Acquisition Officer. The land in question was dry land situated in the village of Gudlur, Prakasam district. The land-holders claimed the compensation @ Rs. 12,000/- per acre taking into account the physical features of the land. Taking into consideration the sale deeds relied upon by both the sides and potentialities of the land, the learned Subordinate Judge fixed the market value at Rs. 8,000/- per acre. Though the learned Counsel for appellant endeavoured to canvass the correctness of the findings of the Court below regarding the market value arrived at, he could not substantiate his contention having regard to the available state of evidence on record. The learned Counsel has agreed that the lower Court has not committed any error in principle nor has overlooked any material evidence. Therefore, the award of the Court as regards fixation of the market value does not call for any interference.

2. The main question argued before us is that the Subordinate Judge erred in not extending the benefits of the Land Acquisition Act (Act 68 of 84) i.e., the benefits u/s 23(1-A) and the benefit of enhancement of solatium and interest u/s 23(2) and Section 28 on the ground that the award of the Land Acquisition Officer and that of the Court fell outside the two dates i.e., 30th April, 1982 and 24th September, 1984. This aspect is no longer *res integra* as it is concluded by the decisions of the Supreme Court. In view of the decision in *K.S. Paripoornan Vs. State of Kerala and Others*, the learned Counsel for appellant has fairly conceded that the benefit of Section 23(1-A) introduced by the said Amendment Act is not available to the appellants. As regards the enhanced rate of solatium and interest, the points are covered by the decision of the Supreme Court in *Union of India and Ors. v. Filip Tiago De Gama*, AIR 1990 SC 981 and, the judgment in *K.S. Paripoornan* case (4 *infra*).

3. Learned Government Pleader has brought to our notice the decision in *Mir Fazeelath Hussain and others Vs. Special Deputy Collector Land Acquisition, Hyderabad [OVERRULED]*, in support of his contention that enhanced rate of interest cannot be awarded inasmuch as the award of the Collector as well as the judgment of the Civil Court were not rendered during the interregnum between 30-4-1982 and 24-9-1984. Though at first blush, there appears to be an apparent conflict between the two judgments in *K.S. Paripoornan Vs. State of Kerala and Others*, and *Mir Fazeelath* case (3 *supra*), it seems to us that the ratio of the Supreme Court's decision in *K.S. Paripoornan Vs. State of Kerala and Others*, has direct application to the present case. The principle laid down in *Filip Tiago* case (2 *supra*) which was approved by the constitution Bench in second *K.S. Paripoornan*'s case as regards enhanced solatium will equally govern the applicability of enhanced rate of interest. That apart, in *Mir Fazeelath* case (3 *supra*), the award of the Land Acquisition Officer as well as that of the Court were rendered before the Amendment Bill was introduced in the Parliament i.e., 30th April, 1982. Therefore, the Supreme Court declined to give the benefit of amended provisions enhancing solatium and interest merely on the ground that the appeal against such award was disposed of by the Supreme Court subsequent to the commencement of the amendment Act. In the case on hand, the award and decree of the Court was made on 15-7-1985 i.e., after the Amendment Act. If so, the ruling and ratio in *Filip Tiago* case (2 *supra*) fully applies, so also, the decision in Second *Paripoornan* case (4 *supra*) directly applies as regards the interest.

4. We therefore direct modification of the decree of the lower Court so as to give the benefit of enhanced solatium of 30% and enhanced rate of interest as laid down in the amended Section 28 of the Land Acquisition Act. The appeal is thus partly allowed. No costs.