(2022) 03 TEL CK 0030

In the Telangana High Court

Case No : Land Acquisition Appeal Suit No. 489 Of 2012

M.Janardhan Reddy APPELLANT

Vs

Government Of Andhra Pradesh RESPONDENT

Date of Decision : 10-03-2022

Acts Referred:
Land Acquisition Act, 1894 — Section 18

Citation : (2022) 03 TEL CK 0030

Hon'ble Judges : A.Rajasheker Reddy, J;M.Laxman , J

Bench : Division Bench

Advocate : N Vasudeva Reddy

Final Decision : Partly Allowed

Judgement

1. This appeal assails the order and decree dated 02.07.2012 in L.A.O.P.No.604 of 2006 on the file of the Court of the I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar (for short, reference Court), wherein and whereby the market value fixed by the Land Acquisition Officer was enhanced from Rs.80,000/- per acre to Rs.2,00,000/- per acre for the acquired lands belonging to the appellants herein in addition to granting of other statutory benefits under the Land Acquisition Act, 1894 (for short, the Act).

2. The appellants herein are the claimants and the respondent herein is the respondent in L.A.O.P.No.604 of 2006. For the sake of convenience, the parties hereinafter are referred to as they are arrayed in the said LAOP.

3. The sum and substance of the case of the claimants is that they are the owners of lands to an extent of Ac.3-00 guntas and 3700 square yards in Sy.Nos.18, 26, 28 and 29, situated at Immamguda Village, Maheshwaram Mandal, Ranga Reddy District. The Government acquired the said lands for the purpose of laying approach road to Hardware Park undertook by A.P.I.I.C. Limited. A notification was issued on 30.04.2005 and possession of the lands was taken on 15.06.2005 by invoking the urgency clause. After award enquiry, the

Land Acquisition Officer has passed an Award dated 08.08.2005 fixing the market value @ Rs.80,000/- per acre, apart from granting other consequential benefits. Dissatisfied with the same, the claimants sought reference under Section 18 of the Act for enhancement of compensation from Rs.80,000/- per acre to Rs.3,000/- per square yard. Such reference was numbered as L.A.O.P.No.604 of 2006.

4. In the reference Court, the claimants to support their case, examined P.Ws.1 to 6 and relied upon Exs.A-1 to A-18. The respondent, to support its case, examined R.W.1 and relied upon Ex.B-1.

5. The reference Court, appreciating the evidence on record, has enhanced the compensation from Rs.80,000/- per acre to Rs.2,00,000/- per acre. Dissatisfied with the said enhancement, the appellants filed the present appeal for enhancement of compensation.

6. Learned Senior Counsel for the appellants/claimants has contended that the Land Acquisition Officer as well as the reference Court have failed to consider the prevailing market value in the locality and also failed to consider the genuine transactions either reflected in the Award or placed before the reference Court. Without considering such evidence, the market value was enhanced to Rs.2,00,000/- per acre, which is meager. He has also contended that the acquired lands are abutting to the State Highway leading from Hyderabad to Srisailam and they have various potential values. The area where the subject lands are situated is covered by various industries on account of development of the area by the A.P.I.I.C. Limited and there was a great demand for the residential plots. Before acquisition, the appellants made a layout over the subject lands, and in fact, there are several transactions under Exs.A-12 to A-18 which pertain to part of subject lands. Lastly, he has contended that the reference Court has ignored Ex.A-4, sale deed, which is anterior to the notification and also ignored Ex.A-6, sale deed pertaining to larger extent which was sold for Rs.28,00,000/- per acre. Though the lands covered under Ex.A-6 are situated in a different village, the transaction was done immediately after the present notification was issued. Therefore, the appellants are entitled for fixation of market value not less than Rs.3,000/- per square yard.

7. Learned Government Pleader for Land Acquisition, representing the State, has contended that the lands covered by Exs.A-1 to A-3, which the appellants have purchased and converted into house plots, were purchased for Rs.3,00,000/-per acre in the year 2004 and the present acquisition is of the year 2005. Therefore, after giving escalation, the said documents can be the basis to enhance the compensation. It is also his contention that Exs.A-4, A-12 to A-18 are the created documents in anticipation of acquisition proceedings. In fact, there is no layout as pleaded by the appellants on the strength of Ex.A-9. According to him, Ex.A-9, layout, was obtained from the Gram Panchayat in the year 2003, whereas the lands under Exs.A-1 to A-3 were purchased in the year 2004. If really the plotting was done as claimed by the appellants, the link documents

under Exs.A-1 to A-3 should reflect as the plotted area, however, such documents only show that they are the agricultural lands. This evidence clearly establishes that Ex.A-9 is created on the strength of some challan available for the year 2003. It is also submitted that under Ex.A-5, the A.P.I.I.C. Limited sold an extent of land admeasuring Ac.4-06 guntas to the various industries @ Rs.2,000/- per square yard, after fully developing the area. These documents establish that prevailing market value in the locality was not higher than the amount fixed by the reference Court.

8. A reading of the impugned order shows that the reference Court has noted that in the Award of the Land Acquisition Officer, it was clearly mentioned that the acquired lands are abutting to State Highway and house sites were made without any approved layout. As seen from Ex.B-1, copy of Award, the Land Acquisition Officer has recorded the various sale transactions prior to the notification. The sale transactions referred at Sl.Nos.16, 17 and 19 in the Award relate to documents under Exs.A-1 to A-3. In respect of the said sale transactions, the Land Acquisition Officer has clearly recorded that the lands are abutting to the State Highway leading from Hyderabad to Srisailam. It is also recorded that entire lands have been converted into house plots, but there are is approved layout to those lands. Exs.A-1 to A-3 are the sale transactions relating to the plotted area, which is under acquisition in the present case. The said plotted area was purchased by the appellants from the original land owners. Therefore, the subject lands said to be are located abutting to the State Highway leading from Hyderabad to Srisailam and they were converted into house plots.

9. Learned Senior Counsel for the appellant has relied upon Ex.A-9 draft layout obtained from the Gram Panchayat and also relied upon a challan which was paid in the year 2003 i.e., much prior to the acquisition. Therefore, according to him, Exs.A-12 to A-18 are the sale transactions relating to house plots prior to the acquisition of lands which the appellants purchased under Exs.A-1 to A-3.

10. To counter the said claim, learned Government Pleader has brought to the notice of this Court Exs.A-1 to A-3, the transactions relating to July and November, 2004. After purchasing the land under Exs.A-1 to A-3, the appellants have converted the land into house sites without any approval. This shows that these sale transactions clearly establish that if really in 2003 there was approval of layout from the Gram Panchayat, Exs.A-1 to A-3 should have reflected the sale transactions as house plots, but they have sold the land in the form of agricultural land.

11. As rightly contended by the learned Government Pleader, Ex.A-9 shows that a challan was remitted in the year 2003 by the original land owners. Exs.A-1 to A-3 show that the lands sold under the said documents are agricultural lands and not house plots. If really there was an approved layout for plots in the year 2003 itself, definitely when the sales were made under Exs.A-1 to A-3, the appellants could not have claimed the lands as agricultural lands, but those documents clearly show that they are agricultural lands. Further, when the layout is made by

the purchasers under Exs.A-1 to A-3, the question of payment of necessary fee to the Gram Panchayat by the land owners having sold the land to the appellants does not arise. These circumstances go to show that layout was not obtained from the Gram Panchayat, and it appears that it is a created one and hence, reliance cannot be placed on Ex.A-9.

12. Further, the admission of the Land Acquisition Officer itself shows that the acquired lands were already converted into house plots, but without any approval. This means, the purchasers of the lands i.e., the appellants have converted the agricultural land into house plots without following proper procedure for such conversion. Therefore, the claim set up by the appellants to place reliance on Exs.A-12 to A-18 cannot be taken into account. Exs.A-12 to A-18 show that under each document, the extent of plotted area is 200 square yards and the sale consideration was Rs.1,00,000/-. This means, the price per square yard comes to Rs.500/-. Those documents appear to have been brought in anticipating the acquisition proceedings. Therefore, they cannot be taken into account in fixing the market value.

13. Further, Ex.A-4 also cannot be believed for the reason that it was sold out @ Rs.1,200/- per square yard and it was also executed just before the acquisition of land i.e., notification was dated 30.04.2005. The sale transaction is dated 25.04.2005. The sale was made by the original patta holder, who sold the land in favour of the appellants under Exs.A-1 to A-3. When the appellants themselves sold the land treating it as agricultural land, they cannot say that they sold the land by converting it as plots. Therefore, such document cannot be relied upon. Ex.A-6, sale deed, relating to the larger extent of area, which is of post-notification i.e., the sale transaction is dated 28.12.2005. The price mentioned in the said document is Rs.28,00,000/- per acre. Under the said document, the total land sold was Ac.10-00 guntas situated at Sri Nagar Village. This is a post sale notification and not from the same village. Therefore, this document cannot also be taken into account.

14. Ex.A-5 is the sale transaction relating to the sales made by A.P.I.I.C. Limited in the Hardware Park. After development of the area, an extent of Ac.4-06 guntas was sold @ Rs.200/- per square yard. By relying upon the said document, learned Government Pleader has contended that when the developed land itself was sold out @ Rs.200/- per square yard, the land which is not developed cannot fetch more than it.

15. It must be noted that the land allocation in the developed area of A.P.I.I.C. Limited was a concessional allocation to promote the industries. Such a value mentioned cannot also reflect the true market value. The potentiality in the present case shows that by the time of acquisition of subject lands, already A.P.I.I.C. Limited laid Hardware Park and the subject lands were acquired for the purpose of providing way to the Hardware Park. When the Hardware Park was established much prior, definitely there would be appreciation in the price of the surrounding area. Further, the subject lands are abutting to the State Highway

leading from Hyderabad to Srisailam. This is not seriously in dispute. It is also to be noted that the land owners i.e., the appellants, after purchasing the land, developed the same by making the plots and the same is also not in dispute by the Land Acquisition Officer in his Award enquiry and the same was also noted by the reference Court.

16. The above facts cannot be ignored in fixing the market value of the land. Though the appellants have not obtained layout permission properly, the development which they have made cannot be discarded. The sales statistics referred at Sl.Nos.9 and 10 of the Award show that extents of lands admeasuring Ac.0-09 guntas and Ac.0-11 guntas were sold for Rs.5,55,555/- per acre and Rs.4,54,545/- per acre, respectively. These lands were discarded for the simple reason that they are abutting to the State Highway leading from Hyderabad to Srisailam. Further, the sales statistics referred at Sl.No.8 of the Award, statistical data reflects that an extent of land admeasuring Ac.1-21 guntas was sold for Rs.9,61,000/- per acre, which comes to Rs.6,30,000/- per acre. The said document is of the year 2004 much prior to the acquisition proceedings. This was also discarded for the reason that the said land was abutting to Srisailam-Hyderabad State Highway. It was located in the developed area covered by structures. The Government itself sold the land of Ac.4-06 guntas @ Rs.200/-per square yard and not on acerage basis. This circumstance also cannot be ignored.

17. Considering the potentialities referred herein before, and considering the sales statistics referred in the Award, this Court feels that fixing of Rs.300/- per square yard would be the fair market value for the lands acquired. According to the own contention of the learned counsel for the appellants, 40% of the area developed was left for amenities such as roads, parks, etc., though it is not an approved layout. As the appellants themselves stated that 40% is left for amenities, the said extent shall be given deduction after fixing the market value @ Rs.300/-per square yard.

18. In the result, the appeal is partly allowed, as follows:

(i) The compensation amount is enhanced from Rs.2,00,000/- per acre to Rs.300/- per square yard in respect of the acquired land;

(ii) 40% shall be deducted towards developmental charges after fixing the market value @ Rs.300/- per square yard;

(iii) The appellants are also entitled for other consequential statutory benefits on the market value fixed so.

Miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.