(1992) 02 AP CK 0001

In the Andhra Pradesh High Court

Case No : Appeal No. 1530 of 1981

M/s. G.H. Ali Mohammed and Co. APPELLANT

Vs

The District Assistant Social Welfare Officer, (L.A.D.), Visakhapatnam RESPONDENT

Date of Decision : 12-02-1992

Acts Referred:
Civil Procedure Code, 1908 (CPC) — Order 43 Rule 1
Land Acquisition Act, 1894 — Section 23, 47

Citation : AIR 1993 AP 16

Hon'ble Judges : Radhakrishna Rao, J;Iyyapu Panduranga Rao, J

Bench : Division Bench

Advocate : M/s. C. Obulapathi Choudary and K. Sesharajyam, for the Appellant; Advocate General, for the Respondent

Judgement

Radhakrishna Rao, J.

An extent of Acs. 3-5927-0 Sq. Feet was acquired by means of a Notification u/s 4(1) published in the Gazette on 4-1-77. The land was acquired for the purpose of providing house sites to the scheduled caste people. The Land Acquisition Officer awarded compensation at the rate of Rs. 5/- per sq. yard. On reference at the instance of the claimants the matter was considered and the learned Subordinate Judge, Vizianagaram granted at the rate of Rs. 10/- per sq. yard. It is against that the State has filed appeal AS.No. 209/81. The appeal was allowed in part by deducting l/3rd of the rate that has been awarded. This judgment was delivered on 20-9-90. The claimant also filed an appeal and now it has come up for consideration before this Court. The claimant''s case is that the lower Court has not correctly appreciated the evidence of P.W. 1 with reference to Ex. A 1 that has been filed in support of the contention that when once the document is admitted it has to be relied upon. In support of his contention the learned counsel relied upon the Full Bench Judgment of this Court reported in A.O. Vijayawada v. Venkata Rao 1991 (1) APLJ 99.

2. But it was brought to our notice a decision reported in Mehta Ravindrarai Ajitrai (Deceased) by Lrs and Others Vs. State of Gujarat, . In that case one person who has no knowledge about the transaction was examined. The Supreme Court held that since proper person was not examined to prove Ex. 118 and the person examined did not have any knowledge, no reliance can be placed for the purpose of considering that exhibit. Even assuming for a movement that Ex. A-1 has been marked still the Court can consider whether the consideration that has been mentioned therein has been duly proved. In the land covered by Ex. A-l there is a basement of 19'' x 18''. No details with regard to the consideration has been spoken as P.W. I has no knowledge about the contents of the document. As P.W. 1 himself has no knowledge and consideration under Ex. A-l has not been established by proving, it cannot be said that the document has to be taken into consideration for the purpose of arriving at a conclusion.

3. It must be remembered that this is a case where the land acquired is Acs. 3-59270 sq. feet and as it is in Municipal Area for lay out naturally 1/3rd will go for the roads and other developments and in this case 1/3rd per cent of the land can reasonably be deducted as the vast extent of land is acquired. Ex. A-l will not be of any help to support the contention that the value is Rs. 30/- or Rs.35/- per sq. yard as on 4-1-77. With regard to Exhibit-B series the sale statistics cannot be relied upon unless proper person is examined.

4. Sri C. Obulapathi Choudary, the learned counsel appearing for the appellant, contended that the basic value register shows that the rate per sq. yard in Santhept North is Rs. 30/ - per sq. yard and that the lower Court has failed to take the same into consideration in fixing value of the land acquired. P.W. 2 was examined in that behalf and he produced Ex. X-1 extract of the Urban Basic Register of 11th Ward, Vizianagaram. P.W. 2 stated that as per Ex. X-1 the basic value of Block No. 1 of 2nd Ward, Santhapadu North was shown as Rs. 30/- per sq. yard. The learned Government Pleader appearing for the respondent contended that the values stated in the basic value register cannot be treated as binding but can be treated as a guideline. He relied upon a decision reported in M/s. Managing Director, Butchaiah Cbowdary v. State of A.P. Rep. by its Secretary, GAD and others; 1989 (3) ALT 677 wherein it is held that the values stated in the basic value register cannot be treated as binding upon the registering officers or upon authorities who present documents for registration and at the most it can be treated as a guideline, a relevant material, by the registering officers. He next relied upon Ponnavolu Sasidar v. Sub-Registrar. Hayatnagar, Ranga Reddy District 1992 (1) ALT 47 wherein the learned single Judge after considering Section 47-A and the Amendments and the judgment of Jeevan Reddy, J., as he then was, came to the conclusion that whenever the registering officer entertains a doubt about the correctness of the value or consideration stated in the document, it is incumbent on the part of the registering authority to make an enquiry either by examining the parties or by gathering information from other sources including the official or public record. Expression ''may'' occur in sub-rule (3) of R.3 confers on the registering officer a

power coupled with the duty. The basic value register is prepared under the Registration Act for the purpose of collecting stamp duty. The parties are bound to pay the stamp duty at the time of registration. If the registering authority is not satisfied with it he is competent to refer the matter to the Collector by taking the aid of Section 47-A.

5. In an unreported decision in Appeal No. 880/80 and cross-objections dt. 11-11-1981 a Division Bench of this Court white considering the rate of which compensation awarded, observed that the rate at Rs. 25/- per sq. yard adopted cannot be accepted as the rate is slightly in excess of the rates adduced by Exs. B-5 and B-6. The learned Judges also observed that the price fetched by the auctioning of O-55 cents of land appears to represent the price which a willing purchaser was prepared to pay for that land. Subsequently following this unreported judgment a Division Bench of this Court considered this aspect in detail in Jawajee Naganatham Vs. Revenue Divisional Officer, Abilabad, . By considering that judgment we have to see whether in this case any case has been made out to consider the basic value register can be taken into consideration. P.W. 2 is the witness that has been examined in this case. P.W. 2 stated that as per Ex. X-l basic value of Block No. 1 of 2nd Ward, Santhapet, North are shown as Rs. 30/- per sq. yard, in fact Ex.A-1 is not related to the suit-land. P.W. 2 further stated that he does not know who prepared the register containing Ex. X-l entry and on what provision of law. P.W. 2 also at the same time states that the documents showing valuation of the properties even high or less than the valuation shown in the basic register, are being accepted for registration. This version of P.W. 2 clearly goes to show that the entries made in the basic register are not the actual market rates of the lands shown therein but they are only valuations to give an idea for the registering department for the purpose of collecting stamp duty. Even if it is for a blockwise also the same block may have different rates in a Municipality. If it is having a shopping complex the rates may be high. It cannot be said that the entire book has got the same potentialities. When the basic value register is not prepared on any scientific date the only conclusion that can be drawn is that the values can be taken for the purpose of stamp duty and it cannot be utilised for any other purpose. No reliance can be placed on the basic value register.

6-7. Another decision reported in Valuri Seethayamma v. The Land Acquisition Officer, Kakinada 1989 (2) APLJ 5 was cited to show that the basic value register should be taken into consideration. The Legislature thought it fit to give additional benefits i.e., solatium, interest etc., to the claimants. If the Legislature is intended to give the benefit of fixing the value basing on the basic value register it would have mentioned so. Hence we are not inclined to accept the above decision.

8. It is submitted by the learned counsel for the appellant that the documents were not properly proved and hence the case may be remanded for disposal. As we have satisfied with the reasons given by the learned subordinate Judge, no

useful purpose will be served in remanding the matter for proving the documents by proper person. It is not a ground to remand this as in some other matter it has been remanded. Wherein this felt that the documents were not duly proved and opportunity was given (sic). But in this case no useful purpose will be served in remanding the matter.

9. For the above reasons the appeal is dismissed. No costs.

10. Appeal dismissed.

