(2015) 12 AP CK 0001

In the Andhra Pradesh High Court

Case No : Appeal Suit No. 453 of 2002

P. Jaya Prakash Rao APPELLANT

Vs

The State RESPONDENT

Date of Decision : 01-12-2015

Acts Referred:
Land Acquisition Act, 1894 — Section 18, 23(1), 4

Citation : (2015) 12 AP CK 0001

Hon'ble Judges : Nooty Ramamohana Rao and Anis, JJ.

Bench : Division Bench

Advocate : V. Rajendra Babu, for the Appellant

Final Decision : Partly Allowed

Judgement

Nooty Ramamohana Rao, J.—This is an appeal preferred by the claimant aggrieved by the Award and Order passed by the Civil Court in O.P. No. 7 of 1989, which is a reference made by the Land Acquisition Officer under Section 18 of the Land Acquisition Act, 1894 (for short, the Act).

2. The facts, which are relevant, are as follows:

"The Collector exercising the power available to him under Sub Section (1) of Section 4 of the Act, published a notification on 24.11.1981 proposing to acquire land to an extent of Ac-5.14 guntas situate in survey Nos. 17, 18 and 21 of Huzurabad, Karimnagar District for public purpose, namely for providing house sites to the poor. Possession of the land was taken, however, on 08.01.1982. The Land Acquisition Officer passed an Award on 23.09.1986 fixing the market value of the said land at Rs. 4,500/- per acre. The claimant having protested for fixation of market value by the Land Acquisition Officer, sought for a reference to be made to the Civil Court for determining the correct market value of the land acquired under Section 18 of the Act and that''s how O.P. No. 7 of 1989 came to be entertained by the learned Senior Civil Judges Court at Karimnagar."

3. The Land Acquisition Officer has taken into account the consideration of the

sale deed, which is executed on 20.03.1979, for determining the value of the land acquired.

4. Before the reference Court, the claimant sought for compensation for the land acquired by fixing its value at Rs. 50-60 per square yard on the premise that the land was acquired for providing house sites to the poor and hence, the market value should be determined on square yard basis. Reliance was placed on three sale deeds by the claimant, whereby certain parts of land have been conveyed in the contemporary period to the notification. Ex. A.1 is the certified copy of the sale deed bearing document No. 1548/79 and it was executed on 07.09.1979. Ex. A.2 is a similar registered sale deed bearing document No. 166/1981, whereby, conveyance took place on 21.01.1981 while Ex. A.3 is a similar registered sale deed bearing document No. 769/81, whereby conveyance took place on 28.03.1981. Ex. A.4 is the sketch prepared showing the position of the acquired land, for driving home the advantageous features of it. Ex. A.5 is the village map of Huzurabad. Ex. A.6 is the certified copy of the decree while Ex. A.7 is the judgment rendered in O.P. No. 9 of 1989 passed by the same reference Court, dealing with another piece of land which stood acquired compulsorily. Ex. A.8 is the certified copy of the judgment rendered by this Court in A.S. No. 948 of 1992, which arose from out of the decree and order, dated 30.12.1991 in O.P. No. 9 of 1989.

5. On behalf of the State, the Land Acquisition Officer got marked the sale deed, dated 20.03.1979, which is the basis for him to arrive at the market value in his Award, as Ex. B.1 while he got the Award passed by him on 23.09.1986 marked as Ex. B.2. Exs. B.3 to B.21 are the certified copies of pahanies for the period from 1980-81 to 1998-99. Ex. B.22 is the combined map of Huzurabad, which disclosed not only the location of the acquired land, but also the other features available in the village including Abadi, agricultural lands, village tanks, roads and lands covered by Ex. B.1, which form the basis for determining the market value by the Land Acquisition Officer.

6. We have considered the submissions made by Sri Ramesh Sagar, learned counsel appearing for Sri Rajendra Babu, learned counsel for the appellant and Sri T. Sarath learned Government Pleader for Appeals for State of Telangana. Sri Ramesh Sagar, learned counsel would submit that Huzurabad in Karimnagar District is very prominent and important Town, may be relatively small in size, but, however, when the lands which are adjoining to Abadi are acquired and that too for the purpose of providing house sites, neither the Land Acquisition Officer nor the reference Court is justified in fixing bare minimum value for lands on acreage basis instead of arriving its value per square yard. This apart, when once the lands acquired in a close-by village namely Bornapally, situate in survey Nos. 325 and 326, which is nearly 3 kilometres away from Huzurabad, this Court has enhanced the compensation as determined by the reference Court at Rs. 1,60,000/- per acre to Rs. 2,00,000/- per acre in its judgment rendered in A.S. No. 948 of 1992 on 10.10.1999, based on this judgment, Sri Ramesh Sagar

would contend that the same has been got marked as Ex. A.8 and therefore, the same value should have been adopted by the reference Court while determining the market value for the acquired land and consequently, it could have fixed the valuation for the acquired land at Rs. 2,00,000/- per acre, in case it has considered that fixing the land valuation at Rs. 50/- per square yard is unreasonable. On the above basis, Sri Ramesh Sagar would contend that at least Rs. 2,00,000/- per acre the market value for the acquired land should have been fixed by the reference Court.

7. Per contra, learned Government Pleader Sri Sarath would contend that the land valuation can be arrived at by taking into account various factors. The advantageous nature of the land, its potentiality and the proximity to various other civic amenities are all factors that weigh in determining the market value. Without there being any material evidence available on record for holding that the lands covered by the judgment rendered by this Court in A.S. No. 948/1992 are exactly comparable in all respects to the lands acquired in the instant case, the same valuation cannot be adopted for the purpose of fixation of market value for the acquired lands.

8. Sri Sarath would further contend that Exs. A.1, A.2 and A.3, which are relied upon by the claimant before the reference Court are dealing with small extents of land, such as Ac-0.02 guntas or Ac-0.03 guntas. He would urge that lands, adjoining any motorable road and such purchase is essentially intended for construction of houses, then the consideration for sale of such lands is bound to contain certain premium component. Therefore, Sri Sarath would contend that the same shall not be taken as offering a reasonable guidance for fixation of the market value of larger extents of lands acquired like in the instant case.

9. It is true that sale transactions covering small extents of land should not normally offer reasonable guidance for arriving at a true value of the lands acquired, particularly when larger extents of lands are acquired like in the instant case. Land of an extent of Ac-5.14 guntas has been acquired for providing house sites no doubt to poor, but, the purpose for which the land is acquired, would not invariably render the land value to be determined on the basis of per square yard or per gunta. We, therefore, are of the opinion that the criticism launched by the learned Government Pleader for relying upon the market value reflected in Ex. A.1, A.2, and A.3 is a fair criticism.

10. But, however, when we examine Ex. A.4-rough sketch prepared, Ex. A.5 village map and Ex. B.22 the combined map of the entire Huzurabad got filed by the Land Acquisition Officer, it has clearly emerged that the land which is now acquired from the claimant is adjoining the old Abadi (village), whereas Huzurabad town appears to have developed towards the other end of Abadi. Therefore, the land, which is acquired, is not far removed or remotely located land, but it is adjoining the old Abadi. Therefore, care should have been taken while determining its true market value. It is no doubt true that Ex. A.1 covers the sale transaction of land to an extent of Ac.0-02 guntas and the sale

transaction was carried out at mere Rs. 2,999/-. Thus, the land value per acre on that basis would work out to Rs. 53,328/-. The said land is stated to be situate by the side of the main road in Huzurabad town. That was the advantage of said land. Similarly, the land covered by Ex. A.2 is Ac.0-01 guntas sold for a consideration of Rs. 3,750/- and on that basis the value of the land would work out to Rs. 1,20,000/-. The land covered by Ex. A.3 is Ac-0.02 3/16 guntas sold for a consideration of Rs. 4,375/- and on that basis the value of the land would work out to Rs. 80,000/- per acre. It is thus, clear that fluctuation in market rate is visible, if one carefully analyzed the prices noted in Ex. A.1, A.2 and A.3. The sale transactions of small extents of land are covered by Ex. A.1, A.2 and A.3. Ex. A.1 deals with sale of land carried out on 07.09.1979 and the land value would work out to approximately Rs. 53,400/- per acre, whereas the value for the land acquired under Ex. A.2, dated 21.01.1981 worked out to Rs. 1,20,000/-, whereas Ex. A.3 concerns, a sale transaction, which took place nearly two months thereafter, the land value has come down to Rs. 80,000/-. When small extents of land are purchased, the purchasers tend to pay more than the land value prevailing per acre. Therefore, we can safely assume that around the time, the land in question was acquired the market value of land per acre could be around Rs. 40,000/- per acre. But, however, when small bits and pieces of land are purchased, depending upon the advantageous position or location of such bits of land, the intending purchasers tend to pay slightly more than the actual market value of land per acre.

11. The criticism that for the agricultural land, situate in Bornapally village fetched Rs. 2,00,000/- as determined by this Court in its judgment rendered in A.S. No. 948/92, certified copy of which is exhibited as Ex. A.8, cannot be taken into account and consideration, firstly there is no material available on record to demonstrate that in all respects the features between the land which are the subject matter of consideration in A.S. No. 948/1992 and the present lands which are acquired, are one and the same or similar. Secondly, the advantages associated with the land covered by judgment rendered in A.S. No. 948/1992 have not been compared to the advantages or otherwise of the lands under acquisition and thirdly the lands in Bornapally village covered in A.S. No. 948/92 are admittedly standing at a distance of 3 kilometers from the lands which are acquired. Therefore, we have preferred not to rest our judgment upon the value determined by this Court in A.S. No. 948/1992.

12. However, having analyzed the entire material very carefully by the learned Senior Civil Judge, the reference Court has adopted a very conservative approach in arriving at the market value towards the end of its order by fixing the market value at Rs. 8,000/- per acre. As already noticed by us, Ex. B.1 relates to a sale transaction, which is more than 2 years prior to acquisition of the present land, whereas Ex. A.1 is a little more than two years ahead of the acquisition of the land, while Exs. A.2 and A.3 deal with lands which are sold in January and March, 1981 respectively, whereas notification was issued towards end of November, 1981. We, therefore, find that the market value of the lands acquired can be

reasonable ascertained based on the sale transaction, covered by Exs. A.1 to A.3 and reducing it by a reasonable percentage. That would have helped in arriving at a true and correct market value as was pointed by us supra. The average value of the land per acre during contemporary period when Exs. A.1 to A.3 are transacted would work out to approximately Rs. 40,000/- per acre. Therefore, even adopting a very conservative method, we find that the reference Court should have fixed the market value at Rs. 25,000/- per acre for the land acquired. It is certainly not justified in fixing the market value at as low as Rs. 8,000/- per acre. While approving the reasoning adopted by the reference Court for arriving at the market value, however, we find that the market value fixed at Rs. 8,000/- per acre being too low, unreasonable unrealistic and is not based on the vital factor that it is adjoining the old Abadi, we feel that it would be fair and reasonable to fix at Rs. 25,000/- per acre and accordingly its value has been fixed at Rs. 25,000/- per acre and on that basis all other statutory benefits other than the one covered by Section 23 (1) of the Act shall be worked out.

13. Accordingly, the appeal stands allowed to the extent indicated above. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

