
(2022) 09 TEL CK 0001

In the Telangana High Court

Case No : Land Acquisition First Appeal Nos. 772, 773 Of 2007

Pedda Kapu Narsi Reddy

APPELLANT

Vs

Land Acquisition Officer

RESPONDENT

Date of Decision : 02-09-2022

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 6, 18

Citation : (2022) 09 TEL CK 0001

Hon'ble Judges : G. Sri Devi, J;M.G.Priyadarsini, J

Bench : Division Bench

Advocate : Pottigari Sridhar Reddy

Final Decision : Partly Allowed

Judgement

1. Since both the appeals are disposed by the reference Court by common order and as the issue involved in both the appeals is one and the same, they are heard together and being disposed of by this common judgment.
2. The appellants are the claimants, who aggrieved by the market rate as fixed by the Court below in reference under Section 18 of the Land Acquisition Act, 1894 (for short "the Act") in O.P. Nos.8 and 7 of 2001, respectively, both dated 07.10.2004, in respect of the value of the guava trees, filed the present appeals.
3. Heard the learned Counsel for the appellants and the Assistant Government Pleader for Appeals appearing on behalf of the respondent. Perused the material available on record.
4. Brief facts of the case are that upon the requisition made by the Executive Engineer, Priyadarshini Jurala Project, Gadwal, for the purpose of submergence under Priyadarshini Jurala Project, the lands of the claimants to an extent of Ac.5.22 gts., in Sy.No.491/1/2 and Ac.3.03 gts., in Sy.No.109/1/2, situated at Anugonda Village of Makthal Mandal were acquired by the Government by publishing draft notification under Section 4(1) of the Land Acquisition Act, 1894 on 10.03.1999 followed by draft declaration under Section 6 of the Act. The Land

Acquisition Officer by award dated 20.07.1999 determined the market value of the acquired land at Rs.42,000/- per acre, but however, no compensation was granted in respect of the standing guava trees. Not satisfied with the compensation determined by the Land Acquisition Officer, claimants sought reference under Section 18 of the Act for enhancement of the compensation and for awarding compensation for the guava trees. The reference was registered as O.P.Nos.8 and 7 of 2001 in the Court of Senior Civil Judge at Narayanpet. By common order, dated 07.10.2004, the reference Court allowed the claims in part by enhancing the compensation in respect of the acquired lands from RS.42,000/- to Rs.1,00,000/- per acre. Further, considering the evidence adduced by the claimants, more particularly Ex.A6, the valuation guidelines issued by the Horticulture Department, the reference Court has awarded a sum of Rs.151/- per tree in respect of guava trees i.e., 725 and 250 in O.P.Nos.8 and 7 of 2001 respectively. Seeking further enhancement of compensation in respect of guava trees, the claimants filed the present appeals.

5. Learned Counsel for the appellants has mainly argued that the reference Court erroneously awarded the valuation in respect of the guava trees at Rs.151/- per tree, which is very meager. The valuation fixed by the horticulture department in respect of guava trees, as seen from Ex.A6, @ Rs.151/- per tree is in respect of yield that would fetch for one year only. Therefore, the reference Court ought to have applied the multiplier '15' as the guava trees would give yield for not less than 15 years. Therefore, the learned Counsel seeks to enhance the valuation awarded by the reference Court in respect of the guava trees.

6. Learned Government Pleader for Appeals would submit that basing on Ex.A6 i.e., guidelines for valuation of Orchards, the reference Court has rightly awarded the value in respect of the guava trees and the same needs no interference by this Court.

7. As regards the market value fixed by the reference Court in respect of the acquired lands, it is to be seen the reference Court basing on Ex.A5, order in O.P.No.87 of 2000 dated 12.07.2004, has rightly enhanced the market value from RS.42,000/- to Rs.1,00,000/-per acre. However, coming to the existing fruit bearing trees ie., guava trees the reference Court basing on Ex.A6 has awarded valuation @ Rs.151/- per tree, which is erroneous under law.

8. The Supreme Court in Assistant Commissioner-cum-Land Acquisition Officer, Bellary v. S.T.Pompanna Setty AIR 2005 SC 749 after referring to its various earlier decisions in fixation of the market value in respect of fruit bearing trees and the multiplier to be followed, held that normally in the cases where compensation is awarded on yield basis, multiplier of 10 is considered proper and appropriate, and that the multiplier of 15 applied was held to be on higher side and accordingly, allowed the appeal reducing the compensation for the acquired land along with fruit bearing trees like Mango, Margosa, Tamarind, Coconut etc.

9. In the present case, in the acquired lands, there is a garden of guava trees,

consisting of 725 and 250 in both the O.P.Nos.8 and 7 of 2001. Therefore, basing on the G.O.M.S.No.601, dated 19.06.1992, guidelines for valuation of Orchards issued by the Revenue (L.A.) Department, this Court is inclined to fix Rs.79/- each for 975 (725 in L.A.A.S.No.772 and 250 in L.A.A.S.No.773 of 2007) trees by 10 years purchase, the value for the entire trees comes to $\text{Rs.}975 \times 79 \times 10 = \text{Rs.}7,70,250/-$ (Rs.5,72,750/- in L.A.A.S.No.772 of 2007 and Rs.1,97,500/- in L.A.A.S.No.773 of 2007).

10. In the result, both the appeals are allowed in part. While confirming the market value in respect of the acquired land, the valuation fixed by the reference Court in respect of guava trees is hereby enhanced from Rs.1,09,475/- to Rs.5,72,750/- in L.A.A.S.No.772 of 2007 and from Rs.37,750/- to Rs.1,97,500/- in L.A.A.S.No.773 of 2007, along with other statutory benefits as awarded by the reference Court. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.