
(2013) 12 AP CK 0058
In the Andhra Pradesh High Court
Case No : A.S. No. 2789 of 2000

P.T. Ramanujacharyulu and Others

APPELLANT

Vs

Special Tahsildar (LA)

RESPONDENT

Date of Decision : 04-12-2013

Acts Referred:

Citation : (2014) 2 ALD 434 : (2014) 3 ALT 6 : (2014) ALT(Rev) 228

Hon'ble Judges : M.S.K. Jaiswal, J; L. Narasimha Reddy, J

Bench : Division Bench

Advocate : P. Kamalakar, for the Appellant;

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—For the purpose of establishing an Industrial Development Area near Nellore Town, the Government acquired about 150 acres of land of Kakutur Revenue Village, Venkatachalam Mandal. A notification u/s 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was published, on 15.12.1990. An extent of Acs.30.92 cents of land, owned by the appellants herein, was also notified. In the award enquiry before the respondent, the appellant claimed compensation @ Rs. 100/-, per square yard. However, award was passed on 23.04.1991, fixing the market value for the land of the appellants @ Rs. 72,600/-, per acre. The appellants submitted a representation u/s 18 of the Act, seeking reference to civil Court. Their request was acceded to and the reference made to the Court of Senior Civil Judge, Nellore, was taken up as O.P. No. 107 of 1992. Through order, dated 20.06.2000, the trial Court confirmed the award and did not order any enhancement. Hence, this appeal u/s 54 of the Act. Sri P. Kamalakar, learned counsel for the appellants, submits that cogent and consistent oral and documentary evidence was placed before the trial Court, which warranted enhancement in the market value and that the trial Court was not at all justified in confirming the award. He contends that Exs. A.1 and A.2 were contemporaneous documents and though they were in relation to smaller extents, were certainly relevant in the matter of fixing the just and proper

market value. He places reliance upon the judgment of the Supreme Court in *Trishala Jain and Another Vs. State of Uttaranchal and Another*,

2. Learned Advocate General, on the other hand, submits that the respondent has taken into account, the sale statistics in the area and has determined the market value @ Rs. 72,600/-, per acre. He contends that Exs. A.1 and A.2 filed by the appellants were in respect of plots, too meagre, in size, and by any standard, they could not have been taken into account, for determining the market value for an area of about 150 acres, or at least, for 30 acres, acquired from the appellants.

3. Out of 150 acres of land acquired for the establishment of an industrial development area, an extent of Acs.30.92 cents was owned by the appellants. In the award enquiry, they claimed the compensation @ Rs. 100/-, per square yard. The respondent passed the award on 23.04.1991, fixing the market value @ Rs. 72,600/-, per acre. This works out to Rs. 15/-, per square yard.

4. In the reference, the trial Court framed the following points for its consideration:

1. Whether the LAO arrived at proper market value in respect of the acquired lands and if the claimants are entitled for enhancement of market value at Rs. 100/- per square yard?

2. Whether the LAO allowed appropriate solatium and additional market value in terms of the Land Acquisition Act?

5. On behalf of the appellants, P.Ws. 1 to 5 were examined and Exs. A.1 to A.12 were filed. On behalf of the respondent, R.Ws. 1 and 2 were examined and no document as such was filed. This is a rare case in which the civil Court has just confirmed the award passed by the Land Acquisition Officer.

6. The point that arises for consideration before us is as to,

Whether the appellants are entitled for enhancement of the market value of the land acquired from them?

7. Fairly large extent of land, being 150 acres, was acquired for the benefit of Andhra Pradesh Industrial Infrastructure Corporation, a State owned organization. About 31 acres of land, owned by the appellants, was included in the acquisition. Though they claimed the compensation @ Rs. 100/- per square yard, they did not place any document supporting their claim to that extent. In this appeal, they restricted their claim to Rs. 56/- per square yard, which is reflected in Exs. A.1 and A.2. Those two documents were came into existence few months before the notification u/s 4(1) of the Act and both of them are in relation to 267 square yards, each. The consideration is Rs. 15,000/- per plot of that size. The record also discloses that those plots were part of an approved layout.

8. P.W. 3-purchaser under Ex. A.1 was examined. Nothing contradictory was

elicited from that witness. It was not even suggested to that witness by the respondent that Ex. A.1 is brought into existence only to provide evidence for claiming compensation at a higher rate. The purchaser or vendor under Ex. A.2 was not examined, obviously because it is similar to Ex. A.1. The only basis for the trial Court to exclude both the documents was that no one connected with Ex. A.2, was examined. That hardly constitutes any justification. It appears that the trial Court was also impressed by the fact that the documents are in relation to the plots of very small size.

9. In the matter of determining the compensation or fixing the proper market value, it would always be better if there exist the contemporaneous documents in respect of neighbouring lands of fairly large size. Though in certain cases such documents are available, in most of the cases, the situation is otherwise. Higher the utility of the land for non-agricultural purposes, more would be the scarcity of transactions in respect of larger extents. As and how the rate in the area increases, smaller and smaller bits are purchased for residential or industrial purposes. It is only when large scale acquisitions are made by the Government or other similar agencies, that such transactions take place. It is not uncommon that even the transactions in relation to small bits of land are taken into account, while determining the compensation for larger extents. Not only Section 23 of the Act, but also the judgments rendered by the Hon'ble Supreme Court from time to time, provide guidance in this regard. Depending on the extent of development and the purpose of acquisition, deductions ranging from 20% to 50% are made. A Court cannot express its helplessness on account of the absence of the transaction in relation to larger extents. There are also instances where double deductions are effected, taking into account the relevant purposes. Reference in this context may be made to a judgment of the Supreme Court in *The Land Acquisition Officer, Kammarapally Village, Nizamabad District, Andhra Pradesh Vs. Nookala Rajamallu and Others*, . In *Trishala Jain's case* (supra), it was held that the value in respect of small bits of land in the neighbourhood would also constitute guidance for fixing the compensation for larger extents.

10. Once the execution of Exs. A.1 and A2 and the fact that they are in relation to the land in the immediate neighbourhood of the acquired land, are not disputed, they can certainly be taken into account for arriving at the just and proper market value for the acquired land. As urged by the learned Advocate General, deductions not only for providing the roads and other amenities, but also the probable expenditure that would incur for providing drainage and other facilities, must be made, since the purpose is to provide an industrial estate.

11. The rate reflected in Exs. A.1 and A.2 works out to Rs. 56/- per square yard. One-third thereof needs to be deducted towards roads and other amenities. If that is deducted, the figure would be Rs. 37.34 p. The additional amenities that are provided in the industrial estates are not that costly, warranting any substantial deduction. In a way, it can be said that they are relatively of a smaller degree, when compared to the amenities that are provided for residential

area to smaller plots. The size of plots in industrial estates would be large and the nature of facilities that are provided to each plot comprised just the water supply, electricity and drainage are less expensive. In a way, such facilities are required to be made to residential layouts also. Be that as it may, even if a sum of Rs. 7.34 p. per square yard is deducted towards such amenities thereby causing double deductions, the market value for the acquired land would be Rs. 30/- per square yard. Though the appellants relied upon some other documents, we find that they are not of any relevance.

12. We accordingly allow the appeal by enhancing the market value for the land acquired from the appellants to Rs. 30/-, per square yard. It is brought to the notice of this Court that no appeal has been filed in relation to the remaining extent of the acquired land. There shall be no order as to costs. The miscellaneous petition filed in this appeal shall also stand disposed of.