
(2014) 04 AP CK 0094

In the Andhra Pradesh High Court

Case No : L.A.A.S. Nos. 71, 72, 78, 79, 81, 93, 102, 152, 153, 154, 155 of 2008 and 303 of 2009

Special Deputy Collector

APPELLANT

Vs

Pogakula Lakshmi Reddy

RESPONDENT

Date of Decision : 16-04-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4(1), 54

Citation : (2014) 4 ALT 555 : (2014) ALT(Rev) 335

Hon'ble Judges : R. Subhash Reddy, J;A. Shankar Narayana, J

Bench : Division Bench

Advocate : K. Rathangapani Reddy, Counsel, Advocate for the Respondent

Final Decision : Dismissed

Judgement

R. Subhash Reddy, J.—These appeals are filed u/s 54 of the Land Acquisition Act, 1894, by the Special Deputy Collector (L.A.), SRBC, Banaganapalle, aggrieved by order dated 06.09.2007 passed in O.P. No. 197 of 2003 and batch, by the Principal Senior Civil Judge, Nandyal, as such, they are heard together and are disposed of by this common judgment. For the purpose of disposal, we refer to the facts as arise in O.P. No. 197 of 2003 and the evidence recorded therein. The land admeasuring Ac.29.17 cents belonging to the respondent-claimants and others in various survey numbers of Banumukkala village of Banaganapalle mandal in Kurnool District, was acquired for the purpose of excavation of major distributary of Block No. X of SRBC. Notification u/s 4(1) of the Land Acquisition Act, 1894 was published on 12.03.1999. The Land Acquisition Officer, after conducting necessary enquiry, passed award No. 21/1999 on 31.01.2000, classifying the lands into three categories viz., dry lands, irrigated dry lands and vacant lands and fixing compensation at the rate of Rs. 38,000/- per acre for dry lands and Rs. 43,000/- per acre for irrigated dry lands as well as vacant lands. Not satisfied with the compensation fixed by the Land Acquisition Officer, claimants sought for reference u/s 18 of the Act, to Civil Court, and on reference,

the matters were tried in O.P. Nos. 196, 197, 199, 200, 201, 202, 204, 205, 596, 597, 598 and 599 of 2003 before the Principal Senior Civil Judge, Nandyal.

2. Before the reference Court, the referring Officer was examined as P.W. 1, and on his behalf, Exs. A. 1 and A. 2, i.e. award enquiry statement and copy of award were marked. On behalf of respondent-claimants, R.Ws. 1 to 10 were examined and Exs. B. 1 to B. 19 and Exs. X. 1 and X. 2 were marked. Apart from the same, Ex. C. 1 - Commissioner's report and Ex. C. 2-Locality plan were also marked through R.W. 6. The Reference court, while considering the oral and documentary evidence on record, has placed reliance on Exs. X. 1 and X. 2. Ex. X. 1 is the certified copy of the order dated 11.03.2003, passed by this Court in A.S. No. 2193 of 1998 and batch and Ex. X. 2 is the certified copy of the order dated 08.07.2004, passed by the Principal Senior Civil Judge, Nandyal in O.P. No. 545 of 2003 and batch, which relate to the acquisition of land admeasuring 25 acres of the same village i.e. Banumukkala village of Banaganapalle mandal in Kurnool District in the year 1992 for construction of SRBC staff quarters. In the said case, when the Land Acquisition Officer fixed compensation at the rate of Rs. 12,526/- per acre, on reference, it was enhanced to Rs. 1,56,000/- per acre. Aggrieved by such enhancement, when the Land Acquisition Officer preferred appeals before this Court, the same were allowed in part, reducing the compensation from Rs. 1,56,000/- to Rs. 1,41,000/- per acre, and it is stated that said orders of this Court were also confirmed by the Hon'ble Supreme Court.

3. In the present batch of O.Ps., the reference Court, having relied on Exs. X. 1 and X. 2, which relate to the acquisition of adjacent lands in the same village, has taken the escalation in land value at the rate of 10% per annum and arrived at the compensation of Rs. 2,52,939/- per acre and rounded it off to Rs. 2,53,000/- per acre. Apart from the same, it has also granted Rs. 25,000/- per acre towards damages on account of severance of lands.

4. Heard learned Government Pleader for Appeals, appearing for the appellant and Sri K. Rathangapani Reddy, learned counsel for respondent-claimants. It is submitted by the learned Government Pleader that the reference Court has enhanced the compensation fixed by the Land Acquisition Officer, without recording valid reasons.

5. It is stated that as Exs. X. 1 and X. 2 relate to the year 1992, the market value of the lands reflected therein ought to have been fixed without any further enhancement. It is further submitted that, in any event, though the respondent-claimants have not suffered any damages on account of severance of lands, the reference Court has erred in granting severance charges at the rate of Rs. 25,000/- per acre.

6. On the other hand, it is submitted by the learned counsel for respondent-claimants that for the lands which are subject matter of earlier orders in Exs. X. 1 and X. 2 and which are situated in the adjoining survey numbers of the present lands, initially the Land Acquisition Officer has fixed the compensation at the rate

of Rs. 12,526/- per acre, and on reference, it was enhanced to Rs. 1,56,000/- per acre by reference Court, and when appeals were filed by the Government, this Court has partly allowed such appeals, reducing the compensation to Rs. 1,41,000/- per acre, which has also been confirmed by the Hon'ble Supreme Court. It is submitted that as no sale transactions are available with regard to larger extents of land, the reference Court has rightly taken escalation of land value at the rate of 10% per annum, as has been approved by this Court and the Hon'ble Supreme Court in several cases. It is submitted that the acquired lands were being used for house sites and that several educational institutions have come up nearby the said lands. It is further submitted that as the lands in question are acquired for the purpose of excavating major distributary of Block No. X of SRBC, canal of 8 Ft. depth has been dug, and on both sides, bunds with height of 6 Ft. have been constructed, as a result of which, access to the leftover portions of land is not available, thereby respondent-claimants have suffered damages on account of severance, as such, the reference Court has rightly awarded severance charges. Learned counsel, while relying on documentary evidence under Exs. C. 1 and C. 2 and oral evidence of RWs. 6 and 7, submits that from the said evidence, it is clear that respondent-claimants have lost access to the un-acquired portions of land on either side of the canal, as such, reference Court has rightly granted Rs. 25,000/- per acre towards severance charges.

7. It is not seriously disputed that the lands covered under the earlier orders in Exs. X. 1 and X. 2, which were acquired in 1992, are adjoining the lands in question. When the Land Acquisition Officer has fixed the compensation for the said lands at the rate of Rs. 12,526/- per acre, it was enhanced to Rs. 1,56,000/- per acre by reference Court, and when appeals were filed by the Government, this Court has partly allowed such appeals reducing the compensation to Rs. 1,41,000/- per acre, which has also been confirmed by the Hon'ble Supreme Court. It is to be noted that all the documents other than Exs. X. 1 and X. 2 relate to smaller portions of land, as such, they do not reflect the correct market value as on the date of notification, so as to treat them as comparable sales for the purpose of arriving at compensation for the present lands. Hence, we are of the view that the reference Court has rightly taken into account the documentary evidence under Exs. X. 1 and X. 2. Further, in view of the increasing trend in land prices, time gap has to be taken into account and proportionate escalation has to be given. In the present case, notification u/s 4(1) of the Land Acquisition Act, 1894 was issued on 12.03.1999, whereas, the lands under Exs. X. 1 and X. 2 were acquired in the year 1992. Therefore, in view of the time gap of about more than 7 years between both the acquisitions, and as the lands in question are in a developed area, we are of the view that the reference Court has rightly given escalation of 10% per annum in land value as has been approved by this Court and the Hon'ble Supreme Court in several cases, and fixed the compensation for the lands in question at the rate of Rs. 2,53,000/- per acre.

8. Coming to the submission made by the learned Government Pleader that the

reference Court ought not to have granted severance charges, a perusal of the plan under Ex. C. 2 makes it clear that canal is passing through the lands of respondent-claimants and there are leftover portions of land on the other side of canal. It is clear from the evidence that, after acquisition, canal of 8 Ft. depth was dug and on both sides, bunds with height of 6 Ft. have been constructed, due to which, respondent claimants have lost access to the leftover portions of lands which are on the other side of canal. Hence, it cannot be said that they have not suffered any damages on account of severance. It is to be noted that in view of acquisition, to reach the leftover portions of land on the other side of canal, respondent-claimants have to travel a lot of distance for agricultural operations, by incurring additional expenditure towards transportation. Taking the same into consideration, the reference Court has rightly awarded severance charges. For the aforesaid reasons, we do not find any valid grounds to interfere with the impugned order. All the appeals are accordingly dismissed. As a sequel, miscellaneous applications if any pending, shall stand closed. No order as to costs.