
(2014) 04 AP CK 0073

In the Andhra Pradesh High Court

Case No : L.A.A.S. Nos. 5, 102, 120, 121, 122, 123 and 124 of 2009

Special Deputy Collector (L.A.)

APPELLANT

Vs

Madiga Mallikarjuna

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

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

Citation : (2014) 6 ALD 7 : (2014) 4 ALT 579 : (2014) ALT(Rev) 349

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, u/s 54 of the Land Acquisition Act, 1894, are filed aggrieved by the common order, dated 13.10.2008, passed in O.P. Nos. 87, 72, 80, 75, 82, 67 & 85 of 2006 by the learned Principal Senior Civil Judge, Kurnool. As identical issues fall for consideration on similar set of facts, these appeals are heard together and are disposed of by this common judgment. As per the requisition made by the Executive Engineer, Handri Neeva Sujala Sravanthi (H.N.S.S.) Division, Kurnool, various extents of lands belonging to the respondents - claimants situated at Bastipadu Village, Kallur Mandal, were acquired under the provisions of the Land Acquisition Act, 1894 for the purpose of excavation of H.N.S.S. Main canal. Notification u/s 4(1) of the Land Acquisition Act was published on 13.10.2005. The Land Acquisition Officer, after conducting necessary enquiry, has categorised the lands into three categories, namely, Dry Lands, Dry lands irrigated with bore-well through pipeline from Handri River and Garden Land with irrigation facility, and passed Awards on 29.03.2006 fixing the compensation at Rs. 25,000/- per acre for dry land and Rs. 40,000/- per acre for irrigatable land and Garden Lands. Not satisfied with the same, the respondents - claimants sought references u/s 18 of the Land Acquisition Act, which were tried in O.P. Nos. 87, 72, 80, 75, 82, 67 & 85 of 2006 by the learned Principal

Senior Civil Judge, Kurnool.

2. Before the reference Court, on behalf of the Referring Officer PW. 1 was examined and Ex. A-1 - award copy No. 24/2006, dated 23.03.2006 was marked. On behalf of the respondents - claimants, RWs. 1 to 7 were examined and Exs. B-1 to B-5, and X-1 to X-7 were marked.

3. The reference Court, though discussed with regard to certain comparative sales, by relying on Award No. 2 of 1997, dated 23.07.1997, marked as Ex. B-2, by which the lands in Sy. Nos. 459/2 to 476 situated at Basthipadu Village were acquired by fixing the compensation at Rs. 70,000/- per acre, has applied appreciation at 12% per annum, as the time gap between Ex. B-2 and the award in question is 8 years 7 months and 6 days, and added the same to the value referred in Ex. B-2 and awarded compensation @ Rs. 1,42,420/- per acre to the dry land. As the lands covered under Ex. B-2 are dry lands, by giving further increase of 1/3rd to the market value fixed for dry lands, fixed the compensation at Rs. 1,89,653/- per acre to the irrigatable dry land. Aggrieved by the same, these appeals are filed by the Land Acquisition Officer, H.N.S.S. Unit IV, Kurnool.

4. Having heard the learned counsel for parties, we have perused the material available on record.

5. It is contended by the learned Assistant Government Pleader appearing for the appellants that as the lands covered under Ex. B-2 were agricultural lands, the compensation was fixed at Rs. 70,000/- and hence by relying on the same, the reference Court ought not to have given escalation at 12% per annum to the dry lands and further 1/3rd escalation to the irrigatable dry lands, instead of usual escalation of 10% per annum.

6. On the other hand, it is submitted by the learned counsel for respondents - claimants that the lands in question are situated very near to the four lane National Highway and they are in the outskirts of Kurnool City. It is further submitted that the lands within the radius of four kilometres from the acquired lands, were used for commercial purpose and certain house projects have come up, and having regard to the potential value of the lands, the escalation was rightly arrived at 12% per annum for dry lands. It is further submitted that as the irrigatable dry lands are fertile lands, where commercial crops were being raised, 1/3rd escalation was given over and above the rate fixed for dry lands for the purpose of fixing the compensation for those lands. In support of the same, the learned counsel relied upon the judgment of the Hon"ble Supreme Court in Ashrafi and Others Vs. State of Haryana and Others, .

7. The respondent - claimant in L.A.A.S. No. 102 of 2009 was examined as RW. 1 in O.P. No. 72 of 2006. He has stated in his deposition that the acquired lands are situated just 30 metres away from National Highway No. 7 and 12 kilometres from the Kurnool City, and at a distance of 5 kilometres from these lands, Educational institutions, namely Kattamanchi Rama Linga Reddy School and Vavilala Junior College, industries, namely, A.P. Carbides and Bharat Gas Filling

Station, are situated. It is further stated that Ulindakonda Railway Station is situated at a distance of 3 kilo metres from the acquired lands and M/s. Raga Mayuri Builders have purchased an extent of 100 acres of land ranging from Rs. 6,00,000/- to Rs. 8,00,000/- per acre, for the purpose of laying house plots, at a distance of 4 kilometres from the lands in question.

8. From the available evidence on record, it is clear that the lands acquired were not only agricultural lands, but they also have got the potentiality of being developed into residential sites, commercial areas etc. In support of their claim, the respondents, apart from relying on Ex. B-2 copy of Award No. 2 of 1997 dated 23.07.1997, have also relied on the documentary evidence in Exs. B-3 and B-4, which are sale deeds, dated 03.04.2004 and 08.04.2004, respectively. Under Exs. B-3 and B-4 the lands admeasuring Ac.0.18 cents and Ac.0.30 cents, situated at Chetlamallapuram (adjoining village) were sold at Rs. 1,50,000/- per acre. It is also to be noticed that under Ex. B-1 sale deed dated 22.04.1996, the land in Sy. No. 481 of the same village i.e. Bastipadu, was sold at Rs. 60,000/- per acre. From the series of documents and the copy of the Award, it is clear that there is an increasing trend in the prices of land in Bastipadu Village.

9. It is true that for agricultural lands, escalation in price is normally given at 10% per annum, but in the present case, the reference Court has given the escalation at 12% per annum. Learned counsel appearing for the respondents seeks to justify such 12% escalation, stating that the lands acquired have got the potentiality of being developed into house sites. In the judgment in Ashrafi and Others Vs. State of Haryana and Others, the Hon'ble Supreme Court has approved the escalation at 12% per annum having regard to the potentiality of the lands acquired and also taking note of the increasing trend in prices. Having regard to the evidence on record, the escalation at 12% per annum on the value reflected in Ex. B-2, for the lands in question, cannot be said to be illegal or arbitrary in view of the fact that these lands are in the outskirts of Kurnool City, and certain Educational Institutions are situated around these lands and also a large extent of land was also taken by the private developers for development.

10. The further issue which arises for consideration is whether the increase at 1/3rd on and above the compensation fixed for the dry lands and for the irrigatable dry lands, is justified or not?

11. It is to be noticed that the annual income from the irrigatable agricultural lands will be on higher side compared to the dry lands and in this case, it is not in dispute that the lands covered under Ex. B-2 are only dry lands and hence, the reference Court has fixed the compensation for the irrigatable lands by awarding 1/3rd more than the market value fixed for dry lands. Therefore, we do not find any illegality in the order passed by the reference Court, fixing higher compensation to the irrigatable lands, and hence, it does not warrant any interference by this Court. For the aforesaid reasons, the Land Acquisition Appeal Suits are dismissed. Miscellaneous Petitions, if any, pending shall stand closed. No costs.