
(2004) 07 AP CK 0004

In the Andhra Pradesh High Court

Case No : AS No. 1618 of 2000 and Batch and Cross-Objections in Appeal No. 2168 of 2000

Special Deputy Collector (LA) SRBC

APPELLANT

Vs

Mallu Sunki Reddy

RESPONDENT

Date of Decision : 06-07-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2004) 6 ALD 428 : (2004) 3 APLJ 205

Hon'ble Judges : Devinder Gupta, C.J.;G. Rohini, J

Bench : Division Bench

Advocate : Government Pleader, for the Appellant; Government Pleader in Cross-Objections and B.D. Maheswara Reddy, for the Respondent

Judgement

Devinder Gupta, C.J.—This batch of appeals filed u/s 54 of the Land Acquisition Act 1894 (hereinafter referred to as "the Act") arise out of a Common Award dated 20.9.1999 passed in L.A.O.P.288 of 1997 and batch by the Senior Civil Judge, Atmakur answering the reference petitions filed u/s 18 of the Act against Award No. 16/91-92 dated 25.3.1992 passed by the Special Deputy Collector, (LA), S.R.B.C., Nandyal, determining the amount of compensation payable to various claimants for the acquired land situated in Chanugondla Village in the Revenue Mandal of Owk, Kurnool District.

2. On 6.7.1990 a requisition was sent by the Executive Engineer, Srisailam Right Bank Canal Division No. 3-4, Koilkuntla to acquire land for excavation of Main Canal of S.R.B.C. from KM. 126.000 to KMs. 128.540. Draft notification was approved by the Government on 11.9.1991 and notification u/s 4(1) was published on 23.9.1991 expressing the intention of the Government to acquire Ac.33.16 cts. of land situated in Chanugondla Village, Mandal Owk, Kurnool District, for excavation of main canal of S.R.B.C. The Special Deputy Collector (LA) made his Award No. 16/91-92 on 25.3.1992 offering compensation to claimants at Rs. 12,000/- per acre. The LAO has referred to as many as 34 sale

transactions, which took place from 19.4.1989 to 13.9.1991. After discarding 22 sales, he was inclined to consider 12 sale transactions to arrive at the market value of the land after noticing that the lands covered by the said sales are situated within a radius of one k.m of the lands under acquisition. However, the LAO discarded these sales also on the ground that they are either under valued or over valued. Ultimately, it was observed by him that his discreet enquiry in the village revealed that the prevailing rates of the dry lands in the village are ranging from Rs. 10,000/- to Rs. 25,000/-, therefore, it was reasonable to fix the market value of the land at Rs. 12,000/- per acre. The Reference Court by the impugned award dated 20.9.1999 enhanced the market value at Rs. 24,000/- per acre. Feeling aggrieved, the present appeals have been preferred by the Government on the ground that the award of the Reference Court is excessive.

3. The Reference Court treated O.P. No. 289 of 1997 as the lead case. Claimants examined two witnesses and placed reliance upon the sale transaction Ex.A.1 dated 26.7.1991 by which an extent of Ac. 1.00 of land was sold by P.W.2 for Rs. 30,000/-, who deposed that the land sold by him is similar in all respects to the land which was acquired and was located near by the acquired land. The LAO examined himself as RW1, but no documentary evidence was adduced on his behalf except copy of the impugned award, which was marked as Ex.B.1. P.W.1 is the claimant. P.W.2 is the vendor of Ex.A.1 sale transaction. Reference Court relying upon Ex.A.1 sale transaction and the evidence of P.Ws.1 and 2 came to the conclusion that Ex.A.1 can be taken as a comparable sale in arriving at the market value of the land and accordingly enhanced the market value of the land to Rs. 24,000/- per acre.

4. We have heard learned Counsel for the parties and have gone through the record.

5. The only basis for the Reference Court for enhancing the amount of compensation is sale deed dated 26.7.1991 whereas the requisition to acquire the land was sent on 6.7.1990. Lands were surveyed on 14.7.1991 and thereafter LAO inspected the lands. Draft notification was published on 23.9.1991. Ex.A.1 sale deed dated 26.7.1991 though was referred to by the LAO in his award but it was discarded on the ground that the sale price was inflated and sale was brought about after people had come to know of the land being acquired. In these circumstances, it is but necessary for the claimants to have adduced some evidence before the Reference Court about the bona fide nature of sale transaction to establish that price reflected in the sale transaction was the correct market value of the land prevalent in and around the area as on the date of the sale. But, no effort has been made by the claimants to prove the bona fide nature of the sale instance.

6. Today in a batch of judgment rendered by this Bench in A.S. No. 2348 of 1999 and Batch (The Special Deputy Collector (LAO), SRBC, Special Deputy Collector, (LAO), SRBC Vs. P. Chinna Pullaiah,), these aspects were duly discussed. In the said case also, there was only one sale transaction relied upon by the LAO and

we had applied thumb rule in fixing the market value. While doing so, the Bench has also taken note of the fact that stay of execution of the awards of the Reference Courts was granted subject to deposit of one half of the enhanced amount of compensation and the same was directed to be released to the claimants without furnishing security and accordingly fixed the market value of the land to the extent to which the additional amount of compensation has been released to the claimants. In the said case, the Reference Court had enhanced the compensation from Rs. 13,000/- to Rs. 26,000/- per acre and we have fixed market value at Rs. 19,000/- per acre. In the present cases, the Reference Court enhanced the amount of compensation from 12,000/- to 24,000/- per acre. Applying the same principle and also having due regard to the fact that in these cases also stay of execution of the awards of the Reference Courts was granted subject to deposit of one half of the enhanced amount of compensation and the same was directed to be released to the claimants without furnishing security, we are of the view that Rs. 18,000/- per acre shall be just and fair market value of the land as on the date of the notification.

7. In the result, the appeals are partly allowed and the order of the Reference Court is modified holding that the claimants are entitled to compensation at the rate of Rs. 18,000/- per acre besides other statutory benefits. In case interest on solatium and enhanced compensation has not been paid, the same will also be paid to the claimants. Parties are directed to bear their respective costs. Cross-objection dismissed.