

(1992) 07 AP CK 0023
In the Andhra Pradesh High Court
Case No : Appeal No. 1359 of 1991

The Land Acquisition Officer (Sub-Collector)	APPELLANT
Vs	
Syed Waliuddin and Others	RESPONDENT

Date of Decision : 14-07-1992

Acts Referred:

Land Acquisition Act, 1894 — Section 20, 50(2), 54

Citation : (1992) 3 ALT 424

Hon'ble Judges : N.D. Patnaik, J

Bench : Single Bench

Advocate : V. Tulasi Reddy, for the Respondent

Final Decision : Dismissed

Judgement

N.D. Patnaik, J.—This appeal is filed by the Land Acquisition Officer against the order of the Subordinate Judge, Bodhan in O.P. No. 30/1988, dt. 30-7-1990.

2. An extent of about 12 1/2 acres of land in Madnoor village, Nizamabad District was acquired by the Government at the instance of the Housing Board for providing House sites to the weaker sections. The Land Acquisition Officer granted compensation at the rate of Rs. 6,000/- per acre. Since claimants were not satisfied with that, a reference was made to the Civil Court u/s 18 of the Land Acquisition Act. The Civil Court granted compensation at the rate of Rs. 5/- per sq. yard. Against that order, this appeal is preferred.

3. The first submission of the learned counsel for the Housing Board is that before enhancing the compensation, the Court ought to have issued notice to the Housing Board at whose instance the land was acquired and since that is not done, the matter has to be remitted and notice has to be given to the Housing Board and then the matter should be decided afresh. He relied upon a decision of the Supreme Court reported in *Krishi Upaj Mandi Samiti v. Ashok Singhal and Ors.* 1992 (2) APLJ (SC) 23. In that case, the acquisition was made for the benefit of the appellant, which was a statutory body. It was contended that since

the acquisition was for the benefit of the statutory body, it is incumbent upon the Court of reference as also the High Court in appeal to issue notice to the appellant before considering the claim of the land owners for enhancement of the compensation. It was not disputed before the Supreme Court that the provisions of the Act which require service of notice to the body for whose benefit the acquisition was made are attracted to this case and that such notice was not served on the appellant and the appellant has no opportunity of being heard. The learned counsel for the land owners submitted that the judgment under appeal may be set aside and the matter be remitted to the High Court for fresh disposal after affording an opportunity to the appellant of being heard. Therefore, the judgment of the High Court is set" aside and the matter was remitted for fresh disposal in accordance with law after affording an opportunity to the appellant for hearing. It could be seen from the narration of facts in that case it was conceded before the Court that the provisions of the Act require service of the notice to the Body for whose benefit the acquisition was made are attracted to that case.

4. The learned counsel for the appellant has also referred to another decision of the Supreme Court reported in *Neelagangabai and another Vs. State of Karnataka and others*, in which also it was stated that it was mandatory for the Court of reference to have caused a notice served on the respondent-Corporation before proceeding to determine the compensation claim. In the State of Karnataka, Section 20 of the Land Acquisition Act as amended, reads as follows:-

"Service of notice - The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the reference and directing their appearance before the Court on that day, to be served on the following persons, namely:-

- (a) the Deputy Commissioner;
- (b) all persons interested in the reference; and
- (c) if the acquisition is not made for Government, the person or authority for whom it is made."

5. The learned counsel for the respondents as well as the learned Government Pleader to whom notice was issued have contended that in view of the provisions of Section 20 of the Land Acquisition Act, as it is applicable in this State, it is not necessary for the court to give notice to the person for whose benefit the land was acquired. Section 20 of the Land Acquisition Act reads as follows:-

"Service of notice - The Court shall thereupon cause a Notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served, on the following persons, namely:-

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have

consented without protest to receive payment of the compensation awarded;

(c) If the objection is in regard to the area of the land or to the amount of the compensation, the Collector." Therefore this Section does not require that notice shall be given to the Housing Board for whose benefit the land is acquired. Section 50(2) of the Land Acquisition Act provides that "in any proceeding held before a Collector or Court, in such cases, the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation." The Housing Board could have filed an application either before the Land Acquisition Officer or the Civil Court to implead it as a party and adduce necessary evidence, but that was not done. Though this appeal is filed in the name of the Land Acquisition Officer, it was filed actually by the counsel for the Housing Board. It is stated by the learned Government Pleader that under a Government Order, the Housing Board is enabled to file appeals after obtaining permission of the Government in the name of the Land Acquisition Officer. Accordingly this appeal is filed by the Housing Board.

6. In the grounds of appeal, no contention is taken that notice ought to have been given to the Housing Board by the Civil Court and without giving notice, the enhancement could not be granted. Therefore, in view of the provisions contained in Section 20 of the Land Acquisition Act, I am unable to accept the contention of the learned counsel for the appellant that notice ought to have been given to the Housing Board by the Civil Court and without giving notice, enhancement cannot be granted.

7. As regards the merits of the case, the learned counsel for the Housing Board contended that since a big chunk of land of 12 1/2 acres is acquired, the compensation should be awarded only on acreage basis. In paragraph 15 of the judgment, the lower Court has referred to the basis under which the Land Acquisition Officer has arrived at compensation. In this case, the notification is issued on 29-3-1985. The Land Acquisition Officer taking into consideration some sale deeds prior to the date of notification, has arrived at the compensation at the rate of Rs. 5,000/- per acre and enhanced it by Rs. 1,000/- and fixed the same as Rs. 6,000/- per acre. But in paragraph 16, the Lower Court has considered the question that since the land is acquired for the purpose of house sites for the weaker sections, compensation has to be awarded on the square yard basis. He has referred to the compensation fixed in O.P. No. 57/1987 on its file for the lands which are close to the lands acquired in this case, for which the compensation is fixed at the rate of Rs. 5/- per sq. yard and adopted the same amount for this land also. The learned counsel for the respondents has pointed out that the order in O.P. No. 57/1987 is confirmed by this Court in A.S. No. 1996/ 1988. Since this Court confirmed the award of compensation at the rate of Rs. 5/- per sq. yard in another appeal, I feel that the compensation awarded by the Court below in this case at the rate of Rs. 5/- per sq. yard is justified.

8. The appeal is therefore dismissed. No costs.