**(1992) 02 AP CK 0045**

**In the Andhra Pradesh High Court**

**Case No :** Letters Patent Appeal No. 184 of 1988 and Appeal Suit No. 1228 of 1981

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| The Revenue Divisional Officer | APPELLANT |
| Vs | |
| Manohar Reddy | RESPONDENT |

**Date of Decision :** 18-02-1992

**Acts Referred:**
Land Acquisition Act, 1894 — Section 23, 4(1), 53

**Citation :** (1992) 3 ALT 528

**Hon'ble Judges :** Radhakrishna Rao, J;Iyyapu Panduranga Rao, J

**Bench :** Division Bench

**Advocate :** N. Vasudeva Rao, for the Claimant, for the Appellant;

## Judgement

G. Radhakrishna Rao, J.—A.S. No. 1228/81 was filed by the claimant aggrieved by the order and decree dated 2-1-1980 passed by the Subordinate Judge, Mahabubnagar in O.P. No. 691 / 77. Likewise, L.P. A. 184 /88 was preferred by the State aggrieved by the Judgment of a single Judge of this Court in A.S. No. 482 /80 dated 12-8-87 arising out of the order and decree dated 2-1-1980 passed by the Subordinate judge, Mahabubnagar in O.P. No. 691/77, Since both the matters arise out of the same order in O.P. 691/77, they are being disposed of together.

2. The Land Acquisition Officer awarded a sum of Rs. 3/- per square yard. On reference the Civil Court passed an order enhancing the same to Rs. 20/- per square yard. Against that, the claimant filed the Appeal 1228/81. Government also filed A.S. 482/80 which came up before our learned brother K. Ramaswamy, J. as he then was, and he allowed the appeal to the extent of deducting 1/3 rd out of Rs. 20/-, for developmental activities i.e., for providing roads, drainage, park etc. The State on behalf of A.P. State Road Transport Corporation for whose benefit, the land has been acquired filed L.P.A. No. 184/ 88.

3. Originally, the land measuring five acres covered by S. No. 21 of Faruknagar (Shadnagar) was sought to be acquired for the purpose of construction of a bus-

stand by the A.P.S.R.T.C. at Shadnagar. The Executive Engineer, A.P. State Road Transport Corporation, Hyderabad sent a requisition to the Government by means of a letter dated 18-5-1974 requesting to acquire the land to an extent of Ac. 5.00 out of S. No. 201 situate at Shadnagar. That means, by May, 1974 itself a preliminary survey has been conducted by the A.P. State Road Transport Corporation and having chosen this particular spot, they asked the Government to acquire the same. Therefore, it cannot be said that the claimants have no knowledge about the steps that were taken by the A.P. State Road Transport Corporation for acquisition of the land. Now, the fact remains that by 18-5-1974 itself, it is made known that the said site is being acquired for A.P.S.R.T.C. ''Because of the present trend of bringing into existence all sorts of documents evidencing sale of small extents for the sole purpose of claiming higher amounts of compensation, this Court feels that it is desirable to take into account the date of the probable knowledge that is being given to the claimant and the date of Section 4(1) notification. The date of 4(1) notification is 27-11-75. Where the rate of small extents of land shown in the sale deeds is abnormally high than the previous sale transactions in that locality immediately after requisition and before the publication u/s 4 of the Land Acquisition Act, it is desirable to eschew those sale deeds from consideration. Sale deeds for small extents of land for higher considerations have to be considered with great care and caution, as the possibility of bringing up of such documents into existence to boost up the price with a view to help the claimants also cannot be ruled out. Apart from these documents/the post notification sales and pre-notification sales also have to be taken into account, for grant of compensation as laid down u/s 23 of Land Acquisition Act.

4. So far as Exs.A-2 and A-3 are concerned, they are post-notification sales. Ex.A-2 is dated 20th June, 1977 for 150 Square Yards-. Ex.A-3 is dated 20-6-1977 for 150 Square Yards. For a small plot of land abutting main road, definitely higher rate will be paid. Post-notification sales, for small extents which have been executed for more than three or four times than the original consideration in the year 1974 or 1975, cannot be treated as a comparable sale to arrive at a conclusion about the rate that has to be paid for Ac. 5.00 of land. Ex. A-4 is also a sale deed for a small extent of land. We are not prepared to accept the same as a comparable sale-deed, because its area is small. The only other document left for consideration is Ex.A-1. P.W. 2 is the person that was examined to prove Ex.A-1. He is the person connected with Exs.A-2 and A-3 also. He himself stated that he wanted to purchase the land in the year 1974 from out of the land that has been acquired and according to him, the rate is on the high side. Even assuming that Ex.A-1 was executed on 11-12-1974, it follows that the deed has come into existence after the receipt of the requisition by the concerned acquisition authorities, and that therefore, the same has to be considered with great care and caution. If we take into consideration the sale and even if we accept Ex.A-1, there is no provision for developmental activities - roads and other amenities. If we deduct 1/3 rd out of it, it will only come to Rs.

 

10/- per square yard. As the Land Acquisition Officer has not produced the material evidence with regard to the circumstances under which it has been brought into existence and there is no suggestion also to that effect, Rs. 10/- per square yard would be the reasonable price to be paid for the extent of Ac. 5.00 of land as compensation.

4. Mr. N. Vasudeva Rao, learned counsel for the claimant contended that the basic value register shows the value as Rs. 25/- per square yard and when the Government itself has fixed the rate, they are estopped from saying that the value prevailing in that area, is about Rs. 3/- only as awarded by the Land Acquisition Officer. We have held in number of other cases that the value fixed in the basic register cannot be treated as a comparable value at the time when the notification has been issued. Basic value register is not prepared with any scientific data and it was prepared only block wise where different rates will prevail. Therefore, the Basic Value register cannot be treated under any circumstances as a basis for fixing the market value as on the date of the notification. Therefore, taking into account all the above factors, we feel that Rs. 10/- per square yard is the reasonable amount of compensation to be paid to the claimants. Accordingly, we allow L.P.A. 184/88 in part fixing the value at Rs. 10/- per square yard. No costs.

5. So far as A.S. 1228/81 is concerned, we did not find any detailed consideration of Ex.A-1 by the lower court. Even assuming Rs. 20/- as the rate per square yard, the lower court has not deducted anything for the developmental activities such as roads, drainages etc. We have closely scrutinised Ex.A-1 and we find that the value cannot exceed more than Rs. 10/- per square yard. Therefore, Rs. 10/- would be reasonable rate per square yard to be paid as compensation to the claimants. Accordingly, A.S. No. 1228/81 is dismissed. No costs.

 