

(1992) 02 AP CK 0018
In the Andhra Pradesh High Court
Case No : Appeal No. 2934 of 1985

The Singareni Collieries Co. Ltd.

APPELLANT

Vs

J. Umashankar Rao and Others

RESPONDENT

Date of Decision : 26-02-1992

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 3, 54

Citation : (1992) 2 ALT 187

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

Bench : Division Bench

Advocate : P. Ramchandra Reddy and G. Suryanarayana Murthi, for the Appellant; C. Ananda Rao, T. Ramulu, Y. Rama Rao for Respondent Nos. 1 to 20 and Government Pleader for Land Acquisition for Respondent No. 21, for the Respondent

Judgement

G. Radhakrishna Rao, J.—In this appeal we are concerned with Ac.37-15 g. covered by the Notification dated 14-2-84. The Land Acquisition Officer dealt with many sale transactions and ultimately relying upon the sale transactions mentioned at Sl.Nos. 43 and 44 and by giving allowance due to the time factor, fixed the value of the land at Rs. 12,000/- per acre. Aggreived by the same the claimants got the matter referred to the Civil Court u/s 18 of the L.A. Act, on the ground that the value of the land is about Rs. 2 lakhs per acre. Before the lower court P.W.1 (claimant No. 6) P.W.2 the pattadar and P.W.3 were examined on behalf of the claimants. On behalf of the respondents, one Senior Assistant was examined and Ex.B-1 was marked.

2. After hearing the arguments we must state that neither the claimants nor the L.A.O. have chosen to prove the relevant evidence for the purpose of determining the compensation. It is brought to our notice that on a prior occasion when a similar was remanded by a Court at Karimnagar because or lack of evidence and when the same was carried to Supreme Court their Lordships awarded at the rate of Rs. 25,000/- per acre as against Rs. 18,000/- per acre

awarded by the L.A.O. holding that they have awarded the said amount in order to have a finality in the matter. In this case P.W.1 is the claimant No. 6. P.W.2 is in no way connected with Ex. A-1 and he is only a pattadar of the said village. As pointed by the Supreme Court in Koyappathodi M. Ayisha Umma Vs. State of Kerala, the persons connected with the documents have to be examined to prove the factum of consideration. Since Ex.A-1 was not proved by any competent person it has to be rejected. Now regarding Ex.A-2. P.W.3 executed the said document as the General Power of Attorney. A doctor purchased the said land and it may be for construction of a house of a Nursing Home. Even the Land Acquisition Officer has mentioned in the award that the value of house sites have gone up in that area ranging between Rs. 80,000/- to Rs. 1,00,000/- per acre. Now we are concerned with the agricultural lands and not the house sites. No house is situated within the area of the acquired land. Simply because it is situated in a notified area or in the industrial area it cannot be said that the said land has got all the potentialities of house sites. Ex.A-2 is the document dated 16-9-83 and the extent of land covered by the said document is 16 guntas which has been sold for Rs. 48,000/- and it comes to Rs. 1,20,000/- per acre. Where small bits of land are sold for a higher consideration and when compared with the previous transactions it is three or four times higher, in such cases it is neither desirable nor permissible to accept that as a relevant document. When the sale transaction under Ex.A-2 is three or four times more than the previous transactions definitely we are of the opinion that Exs.A-2 does not reflect the true value. In the circumstances we hold that Ex.A-2 cannot be taken as a comparable sale. As pointed by the Supreme Court that for adducing the evidence it is not proper to remit back the matter to the lower court and it is the duty of the Court to see that as far as possible a finality has to be attained by disposing of the case. But as Exs. A-1 and A-2 are not the documents on which reliance can be placed and as the evidence that has been let in prevented us from making a finality, we feel that some opportunity be given to the persons who have lost their lands for getting some reasonable compensation. The learned Counsel submitted that Rs. 40,000/- per acre may be fixed as the reasonable price and he placed reliance on some sale deeds for the same. But the details and the reasons that have been mentioned in those sale deed for selling the land at the said price have not been explained by both the parties and by virtue of the Full Bench Judgment of this Court when proper details are not given in the documents the said documents be taken into consideration for the purpose of arriving at a reasonable price.

3. We may also point out that Section 3(b) confines to the persons who are entitled to receive compensation. The meaning of the words "person interested" may not be construed so as to apply to the persons who have purchased the land and who have filed appeals against the claimants. When once leave has been granted to pursue the proceedings, the question not considering the appeal does not arise and in none of the cases placed before us, leave has been granted.

4. For the reasons stated above, the matter is remitted back to the lower court.

Since there is a Sub-Court at Peddapalli, the case is remitted back to the file of the learned Subordinate-Judge, Peddapalli, and the learned Subordinate Judge is directed to give an opportunity to both the parties to adduce further evidence to support their respective claims. Since this is a very old matter where 4(1) Notification was published as far back as on 14th Feb. 1984, the lower court is directed to dispose of the matter within four months from the date of receipt of this order. Since the matter is remitted back, the court fee shall be refunded to the appellants.

5. No costs.