
(1992) 03 AP CK 0007

In the Andhra Pradesh High Court

Case No : Appeal No's. 927 and 2156 of 1986

The Special Deputy Collector

APPELLANT

Vs

B. Chandra Reddy and Others

RESPONDENT

Date of Decision : 03-03-1992

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 54

Citation : (1992) 2 ALT 453

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

Bench : Division Bench

Advocate : Advocate General and Government Pleader for Excise, for the Appellant; D. Dananjai, for Respondent Nos. 1, 2, 5 and 14 in A.S.No. 927, D. Laxma Reddy, for Respondent Nos. 18 to 24, D. Laxma Reddy and K. Srinivas Reddy, in A.S.2156, for the Respondent

Judgement

G. Radhakrishna Rao, J.—An extent of Ac.18.04 guntas of land in S.No. 24/1 situate at Sultanvalka Village, Hyderabad East Taluk, Rangareddy District, has been acquired by means of a Notification dated 27-2-1974 u/s 4(1) of the Land Acquisition Act ("the Act" for short) for the purpose of Misra Dhatu Nigam Limited a defence establishment of the Central Government. Out of this land an extent of Ac.2.20 guntas is a submerged area and the remaining Ac.15-24 guntas is the other agricultural dry lands. Possession of the land was taken on 11-7-75 and the award was passed on 22-4-1977 by the Land Acquisition Officer. The Land Acquisition Officer awarded Rs. 3/- per square yard for non-water logged area i.e., at Rs. 14,520/- per acre and at Rs. 1,000/- for submerged lands. An amount equivalent to 1/4th was deducted from the total compensation towards development charges. At the instance of the claimants the matter was referred to the Civil Court in two O.Ps u/s 18 of the Act. The Civil Court fixed the compensation at Rs. 15/- per square yard for non-water logged area and at Rs. 5,000/- per acre for submerged lands. The Civil Court passed awards separately in two O.Ps. i.e., O.P.Nos. 6 and 15 of 1983.

2. A.S.No. 927 of 1986 arises out of O.P.No. 6 of 1983 wherein there are 24 claimants. A.S.No. 2156 of 1986 arises out of O.P.No. 15 of 1983 wherein there are 5 claimants. The claimants in O.P.6 of 1983 claim 4/5th share. Whereas the claimants in O.P.No. 15 of 1983 claim 1/5th share. The Land Acquisition Officer considered the sales of lands in S.Nos. 87/3 to 87/17 and 19 situate in Kharmanghat village which were acquired for B.D.L. and other defence establishments where the market rate was fixed at Rs. 4/- per sq. yard and on the basis of that fixation he has fixed the compensation at Rs. 3/- for non-water logged area in an extent of Ac.15-24 guntas and at Rs. 1,000/- for the submerged area of Ac.2-20 guntas.

3. Evidence was let in before the Civil Court in both the O.Ps. In O.P.No. 6 of 1983 the claimants have examined P.Ws.1 to 3 and marked Exs.A-1 to A-5. On behalf of the Referring Officer, he himself was examined as R.W.1 and marked Exs.B-1 to B-4. In O.P.No. 15 of 1986 the claimants have examined P.Ws.1 to 4 and marked Exs.A-1 to A-7. On behalf of the Referring Officer, R.W.1 was examined and Exs.B-1 to B-3 were marked.

4. The learned Advocate-General strongly contended that none of the documents produced before the Civil Court can be taken into consideration to arrive at a reasonable compensation that is being payable to the claimants and the principle laid down by the Land Acquisition Officer for fixing the fair market value has not been followed by the Civil Court. He further contended that the Court below has not properly appreciated the evidence on record.

5. On the other hand, the learned counsel for the claimants-respondents contends that Exs.A-1, A-2 and A-4 marked in both in O.Ps., throw any amount of light about the rates prevailing at that time and the claim of the claimants at Rs. 15/- per square yard before the Land Acquisition Officer is a reasonable one.

6. Ex.A-1 is the certified copy of the order in O.P.No. 71 /76 on the file of the IV Additional Judge, City Civil Court, Hyderabad, dated 20-3-1978. In that case an extent of Ac.2-17 guntas of land situate at Thummalakunta village was acquired. The acquisition was on 5-9-1974. The land is situate at a distance of 3 k.m. from the acquired land. The Land Acquisition Officer fixed the compensation at Rs. 25,000/- per acre whereas the Civil Court awarded Rs. 16/- per square yard. Ex.A-2 is the certified copy of the sale deed executed by one Narasimha in favour of one Kistamma. Under that sale deed dated 1.1-9-1974 an extent of 500 sq. yards was sold for Rs. 10,000/- which was worked out at Rs. 20/- per sq. yard. This land is situate at a distance of one furlong from the land in question. Ex.A-4 is another sale deed dated 31-1-1972. An extent of 250.00 sq. yards was sold for Rs. 6,000/-. The land sold under this sale deed is situate at Mehdiapura near Madannapet which is at a distance of 3 Kms. from the acquired land.

7. As seen from Ex. A-1 it is an order of another Court in some other O.P. The lands acquired in that case are situate at a distance of 3 Kms. from the lands acquired in this case. Whenever a claimant relies upon a sale consideration

mentioned in a sale deed and filed in another O.P. which is not connected with the acquisition of his land, he has to examine the persons concerned in that sale deed. The mere fact that a sale deed has been considered which is not connected with the village in which these lands are acquired, it does not mean that the order in that O.P. is binding on the Civil Court dealing in another O.P. If the document relates to the same acquisition and the land is situated in the same village then that document can be relied upon. Therefore the question of considering of Ex.A-1 does not arise. Moreover, the land is situated in Tummalkunta village which is at a distance of 2 to 3 Kms. from the acquired land. Therefore, the sale transaction or the fixing of the compensation by the Land Acquisition Officer in O.P. 71 of 1976 cannot be taken as a comparable sale for arriving at a reasonable compensation in this case.

8. Now coming to Ex. A-2, it is a post-Notification sale dated 11-9-1974. P.W.3 is the husband of the vendee under that sale deed. The lands are situated at Saidabad colony. P.W.1 states that these lands are at a distance of 100 to 150sq. yards from the acquired land.

9. Admittedly the lands under Ex.A-2 are situated within the limits of Municipal Corporation of Hyderabad. So a small plot of 500 sq. yards which is lying within the Corporation limits cannot determine the market value of the vast extent of land which is abutting the Corporation area. In this case we are concerned with the acquisition of 15 acres of agricultural dry land and another extent of Ac.2.20 guntas which is a submerged area. It is a well settled proposition that sale deeds of small extents lying within the Municipal area when they are sold for purpose of construction of houses after a proper lay-out etc., cannot be taken as a comparable sale for arriving at a reasonable market value of huge extents of land which is situated outside the Corporation limits.

10. Then there remains Ex.A-4 which is a certified copy of the sale deed executed by one Smt. Sarvar Begum in favour of Pentareddy. It is dated 31-1-1972 under which an extent of 250.66 sq. yds. was sold for a consideration of Rs. 6,000/-. P.W.2 is the attester of Ex.A-4. The land is situated at Mehdipura near Madannapet which is at a distance of 3 Kms. from the acquired land. P.W.2 states that the land is situated at a distance of one furlong from the acquired land. P.W.1 states that the lands sold under Ex.A-4 are situated at a distance of 100 to 150 sq. yards from the acquired lands. R.W.1 states that the land under Ex.A-4 is situated at Mehdipura near Madannapeta at a distance of 3 Kms. from the acquired land. Each witness gave different version with regard to the distance of the land sold under Ex. A.4. There may be slight difference in the version of the witnesses while giving the distances depending upon their geographical knowledge. But in this case the difference is from one furlong to 3 Kms. The land sold under Ex.A-4 is a small extent of 250 sq. yards and the value is worked out to Rs. 24/- per sq. yard. Therefore, this sale deed cannot be taken into consideration as a comparable sale for arriving at the market value of the lands acquired. We have to take into consideration the potentialities of the land, the lie

of the land and the purpose for which it is put to use in future. Even if we take into consideration Ex. A-1 we have to deduct 1/3rd from it for developmental activities. Then it will come to Rs. 10/-.

11. We must express our concern about the manner in which the evidence has been adduced in this case. During the course of arguments, we entertained the idea to remit the matter back to the civil court for fresh consideration. At the same time, we are aware of the fact that the acquisition in this case is of the year 1974 i.e., nearly 18 years back and the award was passed in 1975 and the judgment of the lower Court is in 1985. Therefore, we feel that it is neither desirable nor appropriate to remit back that case at this juncture. We are also fortified in our view by the judgment of the Supreme Court in *Koyappathodi M. Ayisha Umma Vs. State of Kerala*,

12. Now coming to the claim made by the claimants, it is contended on behalf of the learned Advocate-General that since the claimants have claimed Rs. 10/- per square yard after the award was passed, they are estopped from claiming any amount in excess of that claim. On the other hand, Sri Dhananjai, the learned counsel for the claimants in A.S.No. 927 of 1986 contends that since the claimants have already made a claim at the earliest point of time claiming Rs. 15/- per square yard, it cannot be said that the statement made, if any, in the reference application will bind them.

13. In this case, though the claimants have made a claim of Rs. 15/- before the Land Acquisition Officer, they have claimed only Rs. 10/- after the award was passed. It is only after the Land Acquisition Officer fixed the compensation at Rs. 3/- per square yard by taking into consideration, the sale statistics and other documents, the claimants have claimed Rs. 10/- per square yard in the reference applications. Besides, they must have claimed this amount after obtaining legal advice and also after knowing the contents of the award proceedings. In these circumstances when the claimants have claimed only Rs. 10/- square yard having knowledge about the contents of the award proceedings, they cannot now be permitted to contend that the statement made by them in the reference application is not binding and what all claimed before the award proceedings are passed has to be considered as a reasonable claim. The claimants are forbidden to resile and now contend that they are entitled to the amount claimed in the reference application itself.

14. The Land Acquisition Officer fixed the market value of the land in question after giving due opportunity and enquiry into the claim made by the claimants. Since the claimants have themselves participated in the award proceedings and they are aware of the fact as to what documents have been relied upon and as to what is the award of the Land Acquisition Officer and they are also aware of their right to refer the matter to the Civil Court u/s 18 of the Act, it can well be presumed that they are conscious of the real value of the land. Therefore, the amount that has been claimed in the reference application can be presumed to be the rate that was prevailing at that time for which the claimants thought

themselves would be entitled to after taking proper legal advice. Even if they claim exaggerated amount in the reference application, though it is an unreasonable claim, the claimants need not pay any Court fee. When the claimants need not pay the Court-fee and when they are aware of the reasoning given by the Land Acquisition Officer for fixing the reasonable market value for the lands acquired, they cannot now be permitted to resile from the same and contend that the value that has been claimed during the award proceedings alone has to be taken into consideration but not the value that has been mentioned in the reference application. Therefore the rate that has been claimed by the claimants in the reference application after the award is passed can be taken into account to determine the compensation payable to the claimants ignoring the claim that has been made by them during the award proceedings. We, therefore, feel that the claim of the claimants at Rs. 10/- per square yard is a reasonable one.

15. Therefore, the claimants in both the cases are entitled to Rs. 10/- per square yard for the extent of Ac.15-20 guntas i.e., for the non-water logged area and Rs. 4,000/- per acre for the submerged area in an extent of Ac.2-20 guntas.

16. The appeals are thus allowed in part. However as the award was passed on 22-4-77 and the judgment of the Civil Court was on 22-7-85 the claimants are entitled to solatium at Rs. 30% p.a. and interest at 9% p.a. for one year from the date of taking possession of the land and thereafter at 15% p.a. till the date of deposit of the amount. No costs.