
(1992) 02 AP CK 0007
In the Andhra Pradesh High Court
Case No : Appeal No. 773 of 1986

The Special Deputy Collector	Vs	APPELLANT
E. Jagga Reddy and Others		RESPONDENT

Date of Decision : 27-02-1992

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 4(1), 54

Citation : (1992) 2 ALT 578 : (1992) 1 APLJ 477

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

Bench : Division Bench

Advocate : Govt. Pleader for F and A, for the Appellant; E. Ella Reddy and M. Madhava Reddy, for the Respondent

Final Decision : Allowed

Judgement

G. Radhakrishna Rao, J.—The land admeasuring Ac.70-02 gts. was acquired for the purpose of excavation of Kakatiya Canal DBM16 at K.M. 15. It is a dry land and possession was taken on 25-5--81. 4(1) Notification was published on 6-5-82 and the award was passed on 1-8-84. The Land Acquisition Officer awarded at the rate of Rs. 6,250/- per acre. Ex.B-1 is the award that has been marked on behalf of the Land Acquisition Officer.

2. When the matter was referred to the lower court u/s 18 of the Act, the lower court awarded at the rate of Rs. 20,000 per acre. Aggrieved by the same, the State has come up in appeal.

3. The lower court after considering the documents, particularly Exs. A-8 and A-9 which were proved through P.Ws.2, 3 and 4 came to the conclusion that Rs. 20,000/ - per acre would be the reasonable compensation that can be granted for the lands that have been acquired, and double the compensation for wells granted by the L. A.O. P.W.I is the retired Dy. Executive Engineer who deposed that he has inspected about 7 wells on the request made by the claimants and Exs.A-1 to A-7 are the estimates prepared by him. P.W.2 is claimant No. 5 and

P.W.3 is a resident of Mothukulagudem. R.W.I is the Junior Assistant in the Office of the Spl. Dy. Collector, L.A Unit Huzurabad. On a reading of the order of the lower Court we find that the learned Subordinate Judge committed a grave mistake in taking into account the crucial date for fixing the compensation as the date of the award. In Land Acquisition cases the crucial date that has to be taken into account to fix the compensation, is the date of 4(1) Notification. That attempt has not been made by him. Even though B.1 is marked, none of the sale transactions mentioned in Ex.B.1 were marked. With regard to only one transaction he made a mention about it and he rejected it. The sale transactions mentioned in the award, if they are not marked, then the Court is not entitled to take note of that document. It is only if the documents mentioned in the award are marked, the court is competent to look into those documents. Another principle which has to be enunciated is, in a case where a document of the same village is available, it is neither permissible nor desirable for the court to take into account the documents of the neighbouring villages. If the document is of a neighbouring village and if the same land is abutting the land that has been acquired then it can be taken into account. So the distance also has to be considered while taking into account the documents of a neighbouring village. However, as there are 69 sale deed transactions mentioned in the award, R.W.I or the Government Pleader has not taken steps to mark those documents. Hence, we feel that we are handicapped in arriving at a just conclusion to find out the reasonable compensation that can be paid to the claimants whose lands were acquired. Since the reasoning given by the lower court in enhancing the compensation is not correct, we feel that the matter should be remanded back to the lower court. As the claimants have lost their lands and were deprived of it, we feel that an opportunity has to be given to both the parties. As some sale transactions are there in the award which are not marked, the Referring Officer is at liberty to adduce evidence with regard to the same.

3. Accordingly the appeal is allowed and remanded to the lower Court and the lower Court is directed to dispose of the case within six months from the date of receipt of this order, after giving opportunity to both the parties to adduce evidence. As the matter is remitted back, the court fee shall be refunded to the appellant.