
(1992) 02 AP CK 0020
In the Andhra Pradesh High Court
Case No : Appeal No. 1680 of 1987

Vittal and Others

APPELLANT

Vs

Government of A.P.

RESPONDENT

Date of Decision : 25-02-1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 1
Land Acquisition Act, 1894 — Section 23, 54

Citation : (1992) 2 ALT 430

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

Bench : Division Bench

Advocate : R. Subhas Reddy and K. Raghuveer Reddy, for the Appellant; The A.G., for the Respondent

Judgement

G. Radhakrishna Rao, J.—This is a claimants" appeal. An extent of Ac.8-22 guntas of dry chelka land comprising of Act 3-10 Guntas in S. No. 29 and Act 5-12 guntas in S. No. 60 situate at Yengandla village of Medak District was acquired for providing house sites to weaker sections by means of a Notification dated 14-3-1985 u/s 4(1) of the Land Acquisition Act. The possession of the land was taken on 20-4-1985. The Land Acquisition Officer awarded compensation on acreage basis at Rs. 2,000/- per acre as against the claim of the claimants on square yard basis at Rs. 15/- per square yard.

2. On reference to the Civil Court, claimant No. 2 himself was examined as P.W.I and he also got examined one more witness P.W.2, the vendee under Ex.A-1 which is a sale deed dated 30-1-1984. On behalf of the respondent, no one was examined but Exs.B-1 and B-2 were marked.

3. The extent of land sold under Ex.A-1 is 225 Sq. yards for a consideration of Rs. 3,000/-. The said land was purchased for the purpose of starting a saw mill. No saw mill was erected even at the time when P.W.2 gave evidence. On a consideration of the evidence on record, the Court below awarded compensation at Rs. 4,000/- per acre. Regarding Ex. A-1 the Court below found that it cannot

be relied upon as a comparable sale at it is a small extent of land.

4. The learned counsel for the appellants mainly relied upon Ex.A-1 and contended that even after deducting 30% towards roads etc., the net area would be 28,968 Sq. Yards and awarding of compensation on acreage basis at Rs. 4,000/- per acre is too low.

5. It is well settled that while considering the compensation payable for a large extent of land acquired under the Act, any comparable for a small extent with higher consideration cannot be looked into as a safe guide for the purpose of arriving at a just compensation. As already stated, in this case, Ex.A-1 is a sale transaction for 225 square yards for Rs. 3,000/-. It is dated 30-1-1984. According to P.W.2, the vendee under Ex. A-1 the land was purchased for the purpose of starting a saw mill but no saw mill has come up even by the date of giving evidence. It shows that he purchased the land out of necessity i.e., for the purpose of starting a saw mill. In such cases, when a person purchases a small extent of land out of necessity, he will pay higher compensation. He cannot be called a willing purchaser purchasing the land from a willing seller. At best, he can only be termed as a purchaser for necessity. It may be a genuine transaction. But the consideration paid under that transaction, in those circumstances cannot be taken as price of lands prevailing in that area. In villages, people purchase small extents of lands even without any lay-out if it is contiguous to their fields, or for the purpose of providing cart-way to their fields, to keep seed-beds or to raise a hut etc. Such sale transactions cannot be taken as a safe guide for arriving at a reasonable compensation for large extent of lands acquired. Simply because a sale deed of a small extent for higher consideration is filed it cannot easily be accepted when the consideration mentioned therein is a much exaggerated one. It is too idle to accept the contention that 20% or 40% can be deducted from the consideration mentioned in Ex.A-1 particularly when the amount is on the high side. For instance, if the value of the land prevailing as on the date of notification is Rs. 1,000/- per acre and if a sale transaction for small extent reflects Rs. 3,000/- or Rs. 4,000/- per acre even if we deduct the maximum 40% the rate will come to Rs. 1,800/- and Rs. 2,400/-. Therefore deduction of 40% would not be reasonable when the consideration for small extents is shown at 3 or 4 times than the prevailing rates. The transaction under Ex.A-1 is only a commercial transaction and it cannot be taken into consideration for the purpose of considering the reasonable compensation that is being payable as on the date of notification i.e., 14-3-1985. The Lower Court has rightly rejected Ex.A-1 holding that it cannot be taken as a comparable sale. If we eschew Ex.A-1 from consideration there remains no documentary evidence, except the oral evidence that has been let in.

6. The learned counsel for the appellants has brought to our notice the contents in the award proceedings but the sale statistics cannot be taken into consideration. Even looking at the award also for a large extent, item No. 17 shows that in respect of S. No. 316 admeasuring Ac.4-20 guntas the rate was Rs.

2,311/- per acre and item No. 11 shows that in respect of S. No. 343 admeasuring Ac.2-39 guntas the rate was Rs. 2,310/- per acre. P.W.I admitted that his agricultural land since it has been acquired for agricultural purposes the realised potentialities also have to be seen.

7. In these circumstances, we find that on an acreage basis, Rs. 5,000/- per acre that has been fixed would be the reasonable compensation for the land acquired and the lower Court ought not to have deducted 20% for providing amenities particularly when the land value has been fixed as an agricultural land.

8. In the result, the appeal is allowed in part by granting Rs. 4,000/- per acre more against Rs. 4,000/- per acre granted by the Court below. No costs.