

Apsrtc Vs. Poleboina Gurvaiah (Died) by Lrs. and ors.

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Court : Andhra Pradesh

Decided On : Mar-08-2004

Reported in : 2004(3)ALD783; 2004(3)ALT165

Judge : L. Narasimha Reddy, J.

Acts : Land Acquisition Act, 1894 - Sections 23(1A) and 23(2) ; Land Acquisition (Amendment) Act, 1984 - Sections 30 and 30(2)

Appeal No. : CRP No. 4468 of 2003

Appellant : Apsrtc

Respondent : Poleboina Gurvaiah (Died) by Lrs. and ors.

Advocate for Def. : S. Lakshma Reddy, Adv. for Respondent Nos. 2 to 5 in CRP No. 4468 of 2003, for Respondent Nos. 2 to 10 in CRP No. 4466 of 2003 for Respondent No.1 in CRP No. 4469, 4481, 4471 and 4472 of 2003, for Re

Advocate for Pet/Ap. : P. Vinayaka Swamy, SC

Judgement :

ORDER

L. Narasimha Reddy, J.

1. In all these revisions, similar orders passed by the Court of Senior Civil Judge, Suryapet in various execution petitions filed in O.P. No. 81 of 1984, dated 20.2.2003 are challenged.

2. The lands of the respondents in all these revisions were notified for acquisition for the benefit of APSRTC under the Land Acquisition Act (hereinafter referred to as 'Act'). Notification under Section 4(1) of the Act was published on 7.7.1977. The Land Acquisition Officer took up the award enquiry and passed the common award dated 11.9.1980 awarding compensation at the rate of Rs. 7,500/- per acre. The respondents submitted representations to the Land Acquisition Officer to refer the matters to Civil Court under Section 18 of the Act, not, being satisfied with the compensation awarded by the Land Acquisition Officer. The matters were referred to the Court of Senior Civil Judge, Suryapet (for short, 'the Civil Court') under Section 18 and all such claims were dealt with in O.P. No.81 of 1984.

3. Through its judgment dated 10.2.1986, the Civil Court enhanced the compensation by fixing the market value at Rs. 3,60,000/- per acre. Aggrieved by the enhancement, the APSRTC-petitioner herein as well as the Land Acquisition Officer filed A.S.No.2064 of 1986 in this Court. Through judgment-dated 16.8.1993, the compensation was reduced to Rs. 2,25,000/-per acre. A further appeal was preferred by the Government-Land Acquisition Officer as well as the petitioner herein to the Supreme Court, being, Civil Appeal No. 3404 of 1997. The Supreme Court had set aside the judgment of this Court in A.S. No. 2064 of 1986 and the one in OP and remanded the matter to the Civil Court for fresh consideration, through its order dated 28.4.1997.

4. After remand the Civil Court passed fresh order dated 3.9.1999 and re-fixed the compensation at Rs. 75,000/- per acre through its judgment-dated 3.9.1999. In A.S. Nos. 2901 of 1999 and 3078 of 2000 preferred by the claimants, this Court enhanced the compensation to Rs. 2,25,000/- per acre. For the second time, the matter was taken to Supreme Court in the form of Civil Appeal Nos. 7288 and 27290 of 2001. Through its order dated 17.10.2001. The Hon'ble Supreme Court fixed the compensation at Rs. 1,40,000/- per acre. Thereby, the matter in relation to fixation of market value assumed finality.

5. The claimants filed execution petitions to realize the compensation as fixed by the Supreme Court. While submitting the claims, the respondents included additional compensation under Section 23(1-A) and claimed interest on solatium. These two claims were resisted by the petitioner. The Executing Court negatived the contention of the petitioner and awarded additional market value under Sub-section (1-A) of Section 23, as well as interest on solatium through different orders passed on the same date.

6. Sri P. Vinayaka Swamy, learned Standing Counsel for the petitioner Corporation submits that the respondents are not entitled for benefit under Sub-section (1-A) of Section 23 of the Act since the Land Acquisition Officer passed the award much before the date of presentation of the concerned Bill to amend the Land Acquisition Act. He places reliance upon the judgment of the Supreme Court in *K.S. Paripoornan v. State of Kerala and Ors.*, : AIR 1995 SC1012 , which in turn was, followed the judgment in *State of Kerala v. Paily Mani and Ors.*, : (2002)9SCC562 . He also submits that the respondents are not entitled for any interest on solatium at the rates enhanced through the Amending Act.

7. Sri S. Laxma Reddy, learned Counsel for the respondents on the other hand submits that in view of the fact that the matter was pending before the Civil Court as on the crucial date viz., 30th April, 1982 the respondents are entitled for the benefit under Sub-section (1-A) of Section 23 of the Act. Placing reliance upon the judgment of the Supreme Court in *Sunder v. Union of India*, : AIR 2001 SC3516 , he submits that interest on solatium is payable to the respondents.

8. After two rounds of litigation, the matter in relation to the market value of the lands acquired from the petitioner assumed finality. It was fixed at Rs. 1,40,000/- per acre by the Hon'ble Supreme Court in the second round of litigation. For realization of compensation so fixed, the respondents filed various execution petitions before the Executing Court. While there was no controversy as to the market value, unanimity lacked between the petitioner on the one hand and the respondents on the other, on the question of extension of benefit under Sub-section (1-A) of Section 23 and payment of interest on solatium. The Executing Court repelled the contentions of the petitioner and extended both the benefits to

them through the orders under revision.

9. It is not in dispute that both these aspects are introduced into the Land Acquisition Act through the Land Acquisition (Amendment) Act 1984 (hereinafter referred to as 'Amendment Act'). The question as to whether these benefits are available in respect of lands, which were acquired through notifications published before the Amendment Act loomed for quite sometime. The Amendment Act itself fixed various dates for extension of these benefits. While some amendments were to come into force as and when the amendments were given effect to, various dates were fixed for certain other provisions.

10. Under Sub-section (1-A) of Section 23, a new item of benefit in the form of additional market value was provided for. Through amendments to Sections 23(2) and 28 of the Principal Act, rates of interest were revised. For extension of these benefits, the Amendment Act itself stipulated dates under Section 30 of that Act. Section 30 dealt with the extension of benefit of Sub-section (1-A) of Section 23, whereas, Section 30 dealt with extension of benefits under Section 23(2) and Section 28 of the Act, viz., enhanced rates of interest. 30th April, 1982, the date on which the Land Acquisition and Amendment Bill, 1982 was introduced in Parliament, was treated as relevant. It was indicated in Section 30 of the Amendment Act that the benefit under Sub-section (1-A) of Section 23(2) of the Act would accrue to all the cases where the proceedings under the Act were pending as on 30th April, 1982, but no award has been passed by the Collector (Land Acquisition Officer). In case the proceedings were initiated subsequent to that date, the fact that the award was passed made title difference.

11. So far as the benefit under Section 23(2) and Section 28 of Principal Act are concerned, they were extended to all the cases that were pending as on 30th April, 1982 either before the Land Acquisition Officer, the Civil Court, the High Court or the Supreme Court. Various High Courts took different views on these aspects. The matter was ultimately dealt with by a Constitution Bench of Supreme Court. In *K.S. Paripoornan v. State of Kerala* (supra), it was held that the benefit under Sub-section (1-A) of Section 23(2) can be extended only to those cases, where the award is passed by the Land Acquisition Officer subsequent to 30th

April, 1982. Similarly, Section 30 of the Amendment Act was interpreted to mean that if the award was passed by the Land Acquisition Officer earlier to 30th April, 1982, the benefit therein, would accrue to all cases, if they were pending in any Court viz., the Civil Court, the High Court or the Supreme Court.

12. Reverting to the facts of the case, it is evident that the award in relation to the lands of the respondents was passed on 11.9.1980, which is earlier to 30th April, 1982, the crucial date stipulated under Section 30 of the Amendment Act. Therefore, the respondents are not entitled for the benefit under Sub-section (1-A) of Section 23(2). To this extent, the view taken by the Executing Court cannot be sustained.

13. As regards the payment of interest on solatium, the Supreme Court in its decision in *Sunder v. Union of India* (supra), held that the same is available to the claimants, if the matter was pending before the Civil Court, High Court or the Supreme Court as on 30th April 1982. In a way this is the interpretation of Sub-section (2) of Section 30. It is not in dispute that as on 30th April, 1982, the matter in relation to the lands of the respondents was pending before the Civil Court. Hence, no exception can be taken to the order of the Executing Court directing payment of interest on solatium.

14. Hence, civil revision petitions are partly allowed directing that the respondents/ claimants are not entitled for the benefit under Sub-section (1-A) of Section 23(2) of the Act and that they are entitled to be paid interest on solatium.