

Apsrtc Vs. Revenue Divisional Officer-cum-land Acquisition Officer and anr.

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Court : Andhra Pradesh

Decided On : Jul-05-2005

Reported in : 2005(4)ALD772; 2005(4)ALT654

Judge : C.V. Ramulu, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 4(1), 11, 18, 34 and 54; Land Acquisition (Amendment) Act, 1984 - Sections 23(1A) and 30(3); [Constitution of India](#) - Articles 226 and 227

Appeal No. : CRP Nos. 5874, 5875, 5897 and 5979 of 2003

Appellant : Apsrtc

Respondent : Revenue Divisional Officer-cum-land Acquisition Officer and anr.

Advocate for Def. : Government Pleader for the Respondent No. 1 and ;Vinod Kumar Deshpande, Adv. for the Respondent No. 2 in CRPs. 5874, 5875, 5897 of 2003 and for the Respondent Nos. 3 to 10 in CRP No. 5979 of 2003

Advocate for Pet/Ap. : A.V. Sivaiah, Adv.

Disposition : Petition allowed

Judgement :

C.V. Ramulu, J.

1. In these civil revision petitions common questions of law and facts are involved; therefore, they are being disposed of by this common judgment.
2. Few facts, which are relevant for the purpose of deciding these revisions, are to be noted as under:
3. That an extent of Acs.2.38 gts of land in Survey Nos. 28 to 30 of Adilabad Town was acquired for the purpose of locating Andhra Pradesh State Road Transport Corporation Bus Station through a notification issued under Section 4(1) of the [Land Acquisition Act, 1894](#) (for short 'the Act'), which was published in the Official Gazette on 3-11-1977. The Land Acquisition Officer passed an Award fixing the market value of the acquired land at Rs. 12.37 ps per square yard by an Award dated 26-9-1979. The claimant-respondents being dissatisfied with the Award passed by the Land Acquisition Officer, sought for reference under Section 18 of the Act and the same was referred to the competent Civil Court i.e., Additional District Judge's Court, Adilabad, which had taken up the same on file in O.P.No. 759 of 1980 and batch. The reference Court enhanced the compensation as fixed by the Land Acquisition Officer from Rs. 12.37 ps per square yard to Rs. 50/- per square yard. Aggrieved by the same, the claimants as well as the Land Acquisition Officer filed appeals before this Court under Section 54 of the Act. The appeals filed by the Land Acquisition Officer were allowed and the compensation was reduced to Rs. 30/- per square yard, whereas the appeals filed by the claimants were dismissed. However, on filing the Letters Patent Appeals by the claimants, the judgment of the learned Single Judge in the appeals was reversed and the Award passed by the reference Court was confirmed. Thus, the claimants are entitled for the market value for the acquired lands at Rs. 50/-per square yard with all statutory benefits.
4. In pursuance of the Award passed by the Land Acquisition Officer dated 26-9-1979 an amount of Rs. 60,000/- was paid. Further, an amount of Rs. 2,21,752/- were deposited on 21-8-1985, as the Award passed by the reference Court has attained finality in the LPAs before this Court.
5. There is no dispute as to depositing of amount towards the market value of the land and 30% solatium. The only dispute that arose between the parties i.e., the

Land Acquisition Officer and the claimants was as to proper calculation of interest payable on compensation and 30% solatium. The amounts as awarded by the Land Acquisition Officer and the Courts have been deposited by the beneficiary-APSRTC (petitioner herein) as and when it was demanded by the Land Acquisition Officer. In fact, E.P.No. 7 of 1998 and batch in O.P.No. 759 of 1980 and batch were filed before the learned Senior Civil Judge, Adilabad seeking difference of the interest amount payable to them. Calculation Memos were filed both by the claimants as well as the Land Acquisition Officer. After examining those memos, the Executing Court directed the Land Acquisition Officer to deposit a sum of Rs. 7,79,099.81 ps on or before 25-9-2003 by its order dated 28-8-2003 in E.P.No. 7 of 1998 in O.P. No. 759 of 1980. In respect of other E.Ps in other O.Ps also similar calculations were accepted and the amounts claimed were directed to be paid. Aggrieved by the same, the Land Acquisition Officer has not preferred any revision and the beneficiary- APSRTC, which was not a party to the proceeding, though, admittedly, an interested party has questioned the orders passed in the E.Ps., in these revisions on the ground that the calculation memos filed by the claimants were not proper and the Land Acquisition Officer also could not guide the Executing Court properly.

6. Detailed counter-affidavits were filed by the respondent-claimants in the respective civil revision petitions denying the allegations made by the petitioner and asserting that the revision petitioner has no locus standi to question the calculation made by the Executing Court at this length of time, particularly when it failed to avail the opportunity that was afforded to it at the earliest point of time, by this Court. It is also stated that it is incorrect to state that pursuant to the orders of this Court, fresh calculation memos were filed by both the parties, since the Land Acquisition Officer has not filed any fresh calculation memo pursuant to the orders of this Court. It is also incorrect to state that interest had been calculated contrary to the provisions of Section 34 of the Act. The interest was not calculated as alleged by the revision petitioner. It was calculated by the Executing Court and directed the Land Acquisition Officer to deposit the amounts entitled to by them.

7. In this backdrop, the question that falls for consideration of this Court is whether the beneficiary-APSRTC has locus standi to question the order dated 28-8-2003 in

E.P.No. 7 of 1998 and batch in O.P. No. 759 of 1980 and batch and if so, whether the impugned orders are correct?

8. Sri A. V. Sivaiah, learned Counsel for the petitioner, strenuously contended that APSRTC being a beneficiary is an interested party and can question any order passed which casts financial burden on it, whether it was a party in the proceedings before the Executing Court or not. The learned Counsel relied upon the decisions in *State of U.P. v. District Judge, Unnao*, : AIR 1984 SC1401 and *M.S. Jayaraj v. Commissioner of Excise*, : 2000(72)ECC7 , and submitted that the doors of this Court under Article 227 or Article 226 of the [Constitution of India](#) cannot be shut down for a beneficiary, who is saddled with financial liability in the guise of locus standi and for the reason that the beneficiary was not a party to the proceedings before the Executing Court and he was sufficiently represented through the Land Acquisition Officer.

9. In *State of U.P. case (supra)*, it was observed by the Apex Court as under:

'4....Article 227 or Article 226 was devised to advance justice and not to thwart it. Therefore, accepting the finding of the High Court that sitting as Trial Court, it was satisfied that the appellant had made out sufficient cause for condoning the delay, we must interfere in this appeal so as to advance justice.'

10. In *M.S. Jayaraj's case (supra)*, the Supreme Court observed as under:

'12. In this context we noticed that this Court has changed from the earlier strict interpretation regarding locus standi as adopted in *Nagar Rice and Flour Mills v. N. Teekappa Gowda & Bros.*, : [1970]3SCR846 and *Jasbhai Motibhai Desai v. Roshan Kumar*, : [1976]3SCR58 , and a much wider canvass has been adopted in later years regarding a person's entitlement to move the High Court involving writ jurisdiction. A four-Judge Bench in *Jasbbai Motibbai Desai*, (supra) pointed out three categories of persons vis-a-vis the locus standi: (1) a person aggrieved; (2) a stranger; and (3) a busybody or a meddlesome interloper. Learned Judges in that decision pointed out that any one belonging to the third category is easily distinguishable and such person interferes in things which do not concern him as he masquerades to be a crusader of justice. The judgment has cautioned that the

High Court should do well to reject the petitions of such busybody at the threshold itself....

14. In the light of the expanded concept of the locus standi and also in view of the finding of the Division Bench of the High Court that the order of the Excise Commissioner was passed in violation of law, we do not wish to nip the motion out solely on the ground of locus standi. If the Excise Commissioner has no authority to permit a liquor shop owner to move out of the range (for which auction was held) and have his business in another range it would be improper to allow such an order to remain alive and operative on the sole ground that the person who filed the writ petition has strictly no locus standi. So we proceed to consider the contentions on merits.'

11. Per contra, the learned Counsel appearing for the respondent-claimants contended that may be in a given case, the petitioner-beneficiary can agitate the Award passed by the Land Acquisition Officer or the reference Court and file an appeal before this Court or being aggrieved by the judgment of this Court, before the Supreme Court insofar as the main proceedings as to determination of proper market value and payment of compensation under the Act is concerned; but it is not left open for the petitioner to rake up the issue being not a party to the proceedings before the reference Court while awards were being passed after the matter was referred under Section 18 of the Act in O.Ps or in the appeals and L.P.As filed before this Court or in the E.Ps. filed before the Executing Court in the guise of interested party as a beneficiary of the land acquisition proceedings. The petitioner at all stages obliged the decrees passed by the Courts through the Land Acquisition Officer and deposited the amounts as directed. Therefore, these revisions cannot be maintained by the petitioner in the guise of interested party. No legal questions are raised particularly by invoking Article 227 of the Constitution. There is no allegation as to committing any illegality on the part of the reference Court or by this Court in the appeals and the LPAs. The only question sought to be raised in these extraordinary proceedings is to correct the mistake purported to have been committed in the calculation of interest on the compensation amount payable by the Land Acquisition Officer. Learned Counsel relied upon the decisions in *Babhutmal v. Laxmibai*, : AIR 1975 SC1297 , and

submitted that absolutely there are no grounds made out to maintain these revisions filed under Article 227 of the [Constitution of India](#).

12. In Babhutmal's case (supra), the Apex Court while examining the power of High Court under Article 227 of the Constitution held as under:

'...The power, as in the case of certiorari jurisdiction, cannot be invoked to correct an error of fact, which only a Superior Court can do in exercise of its statutory power as a Court of appeal. The High Court cannot in guise of exercising its jurisdiction under Article 227 convert itself into a Court of appeal when the Legislature has not conferred a right of appeal and made the decision of the Subordinate Court or Tribunal final on facts. The High Court cannot, while exercising jurisdiction under Article 227, interfere with findings of fact recorded by the Subordinate Court or Tribunal. Its function is limited to seeing that the Subordinate Court or Tribunal functions within the limits of its authority. It cannot correct mere errors of fact by examining the evidence and reappreciating it....'

13. I have given my earnest consideration to the respective submissions made by the learned Counsel on either side and perused the material made available on record.

14. At the outset, I am of the opinion that insofar as maintainability of CRPs under Article 227 of the Constitution is concerned, probably the petitioner cannot be thrown out in the given circumstances of the case that he is not an interested party and cannot maintain the revision. But the real question is whether any relief can be granted to the petitioner in a revision under Article 227 of the Constitution in the given circumstances of the case. Admittedly, the petitioner has not come on record at any point of time either before the Land Acquisition Officer or the reference Court or this Court when the appeals were pending nor they have questioned the orders passed by any Court of law. There is no disputes to the fact that any order passed contrary to the provisions of the Land Acquisition Act even while calculating the interest, it affects the interest of the beneficiary, which is saddled with financial liability. For the reasons given infra, the Executing Court committed an error apparent on the face of the record. Therefore, the interested party like the revision petitioner can maintain a revision under Article 227 of the [Constitution of](#)

[India.](#)

15. It is settled that the power under Article 227 would not be exercised by this Court to substitute its own judgment, whether on a question of fact or of a law, in place of that of the Subordinate Courts, or to correct an error not being an 'error of law apparent on the face of the record'. Only when there is an error of law apparent on the face of record, the power under Article 227 can be exercised by the High Courts. In exercise of the powers under Article 227 the High Court can set aside or ignore the findings of fact of an inferior Court or Tribunal, if there was no evidence to justify such a conclusion and if no reasonable person could possibly have come to the conclusion, which the Court has come to, or, in other words, it is a finding, which was perverse in law. Except to this limited extent, the High Court has no jurisdiction to interfere with the findings of fact. The power under Article 227 does not vest in High Court with any unlimited prerogative to correct all species of hardship or wrong decisions made within limits of the jurisdiction of the Court or Tribunal. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes. The power under Article 227 exercised by the High Court is its discretion and cannot be claimed as of right by any party. The High Court in its superintending powers under Article 227 can interfere only with any illegality committed by the Subordinate Court either while exercising its jurisdiction or when it does not exercise its jurisdiction vested in it.

16. In the instant cases, it has to be seen as to whether there is any error of law apparent on the face of the record, committed by the Court below in calculating the interest amount payable to the respondent-claimants. In this contention, it is relevant to extract the calculation memo filed by the respondent-claimant in E.P.No. 7 of 1998 in O.P. No. 59 of 1998 on the file of the learned Senior Civil Judge, Adilabad.

'Fresh calculation Memo filed by Decree- holder as per directions of Hon'ble High Court in CRP No. 4783/98, dated 18-9-2001. Compensation amount @ Rs. 50-00per Sq. yard for 3660.25 sq. yards 1,83,012-2530% solatium 54,903-

752,37,916-00 Interest @ 9% p.a. on Rs. 2,37,916/-21,412-442,59,328-44 from 15-6-1975 to 14-5-1976 Interest @ 15% p.a. on Rs. 2,37,916/- from 15-6-1976 to 26-9-1979 1,17,132-86 Paid on 26-9-1979 (-)3,76,461-3060,000-003,16,461-00 Interest @ 15% p.a. on Rs. 2,37,916/- from 27-9-1979 to 4-9-1985 2,12,071-00 Paid on 4-9-1985 (-)5,28,532-001,99,501-403,29,030-60 Interest (5) 15% p.a. on Rs.2,37,916/- from 5-9-1985 to 30-8-1996 35,100-003,64,130-60 Paid on 30-8-1986 (-) 24,251-503,39,879-10 Interest @ 15% p.a. on Rs.2.37,916/- from 31-8-1986 to 20-3-2002 5,55,354-608,95,233-70'

17. From the above, it is clear that the compensation amount and 30% solatium were pooled together making it to Rs. 2,37,916/-. To this extent, there is no dispute whatsoever between the parties. But, the interest on the said amount of Rs. 2,37,916/- was calculated at the rate of 9% per annum from 15-6-1975 to 14-6-1976 and at 15% per annum thereafter upto 26-9-1979. An amount of Rs. 60,000/- was deducted therefrom since the same was paid on 26-9-1979 making the compensation to Rs. 3,16,461/-. Again, interest was calculated at 15% per annum on the entire amount of Rs. 2,37,916/- from 27-9-1979 to 4-9-1985. Further, an amount of Rs. 1,99,501- 40 ps was paid on 4-9-1985. Thereafter, the interest at 15% per annum was claimed on the entire amount of Rs. 2,37,916/- right from 5-9-1985 to 30-8-1986. Thereafter, on 30-8-1986 an amount of Rs. 24,251-60 was paid. Again, interest at the rate of 15% per annum on the original amount of Rs. 2,37,916/- right from 31-8-1986 to 20-3-2002 was calculated making it to Rs. 8,95,233-70 ps. Thus, not only interest on interest was claimed, but also the interest even prior to Amendment Act 68 of 1984 was also calculated, which is absolutely illegal. Thus, there is an error apparent on the face of record in applying the law while calculating the interest. The interest was not calculated as required under the law.

18. I have perused the calculation memos filed by both the parties before the Executing Court and also the calculation memos filed by the petitioner before this Court. After looking into the said calculation memos, the whole edifice of calculation of interest payable to the claimants by the Land Acquisition Officer is on the wrong assumption of the amended provisions of the Act as to entitlement of 9% interest for one year from the date of possession and thereafter at 15% per

annum till the date of realization. It was assumed by the claimants that they are entitled for such interest at 9% for one year and at 15% per annum thereafter upto the date of payment, which is not correct. This is where the claimants have erred in assuming as to entitlement of the interest and, therefore, erred in calculating the same in the calculation memos filed before the Executing Court as well as this Court in these revisions.

19. As per the law, the interest ought to have been calculated on the compensation amount + 30% solatium of Rs. 2,37,916/- from 15-6-1975 to 30-4-1982 at the rate of 4% per annum and thereafter at 15% per annum till the date of payment. Further, the amount as and when paid ought to have been deducted from the compensation amount + 30% solatium and on the remaining amount, the interest ought to have been calculated at the rate applicable to the relevant periods. In these cases, the calculation was made, as per the Amendment Act 68 of 1984, which came into force from 30-4-1982, with retrospective effect i.e., from the date of possession i.e. 15-6-1975. The Amendment Act 68 of 1984 has no retrospective operation except for the limited retro of transitional period between 30-4-1982 to 24-9-1984. In these cases, the interest as contemplated under the amended Act was calculated right from the date of taking possession i.e., 15-6-1975 till the date of payment and without giving deductions to the amounts paid intermittently by the petitioner. In fact, the Apex Court in *Special Tahsildar (LA), P.W.D. Schemes v. M.A. Jabbar*, : [1995]1SCR180, held that:

'3....admittedly, the possession having already been taken on 15-2-1965, before publication of the notification under Section 4(1) on 6-3-1980, the award of additional amount for the period from 6-3-1980 to 30-9-1983 i.e., the date of making the award under Section 11 is perfidy correct. In addition to other statutory benefits, the owner also is entitled to the additional amount, but to give in award additional amount from 15-2-1965, i.e., from the date of taking possession, though apparently earlier in point of time mentioned in Section 23(1-A), in effect it amounts to giving retrospective effect to sub-section (1-A) to Section 23 under the Amendment Act 68 of 1984, even though the Amendment Act was prospective and the transitory provision had only retro- limited activity.'

20. Following the said decision, a Division Bench of this Court in Land Acquisition Officer/RDO, Miryalaguda, v. Lavoori Deshya, : 2002(5)ALD129 (DB), held as under:

'23. The learned Additional Advocate General cited a decision in APLJ 1990 (1) Page 235 Cement Corporation of India Limited, Adilabad represented by its General Manager Sri M.J. Siddiqui v. Revenue Divisional Officer, Adilabad and others wherein a Division Bench of this Court had an occasion to consider the applicability of the provisions of Section 30(3) of the Amendment Act. This Court took the view that by virtue of amended Section 34 of the Act read with Section 30(3) of the Amendment Act, the interest payable on the compensation is from the date when the amended Act came into force. The transitional provisions of Section 30(3) of the amended Act is not interpreted directly in the said decision. The Apex Court in : [1995]1SCR180 Special Tahsildar (LA) P.W.D. Schemes, Vijayawada v. MA. Jabbar, had an occasion to consider the Amendment Act 68 of 1984. It was held 'even though the Amendment Act was prospective and the transitory provision had only retro limited activity'. Considering the above provisions and after hearing the Additional Advocate General and the Counsel for the respondents, we are of the view that the intention of the Legislature was only to give benefits for the lands acquired before 30-4-1982 till the date of the new Act came into force i.e., 24-9-1984. The words from that date' would only imply 30-4-1982 but not prior date. For the above said reasons, we hold that the claimants are entitled to the benefits of the Amendment Act 68 of 1984 only from 30-4-1982 and the interest awarded prior to 30-4-1982 by the lower Court at the rate of 9% for one year and thereafter at 15% per annum is not maintainable, but they are entitled to the interest as per the Madras Act XII of 1953 i.e., at the rate of 4% per annum only.'

21. In view of the above, there cannot be any second opinion that the Court below has committed an error of law apparent on the face of the record in , applying the law for the purpose of calculating interest under the Amendment Act 68 of 1984 apart from calculating interest on interest.

22. For all the above reasons, the civil revision petitions are allowed and the matters are remanded to the Executing Court for proper calculation of the interest payable to the respondent-claimants. Both the parties are at liberty to file fresh calculation memos as stated above and the same shall be taken up and considered by the Executing Court. The Executing Court shall dispose of the E.Ps. within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

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