The Land Acquisition Officer Vs. P.Pulla Reddy and Another.

The Land Acquisition Officer Vs. P.Pulla Reddy and Another.

SooperKanoon Citation : sooperkanoon.com/905893

Court : Andhra Pradesh

Decided On : Jun-09-2010

Judge : Sri A.Gopal Reddy ; Sri Raja, J J.

Acts : Land Acquisition Act, 1894 - sections 54, 18

Appeal No. : A.S.No.607 of 2002

Appellant : The Land Acquisition Officer.

Respondent : P.Pulla Reddy and Another.

Advocate for Def. : Sri O.Manohar Reddy ,Adv.

Judgement :

This appeal under Section 54 of the Land Acquisition Act, 1894 (for short "the Act") by the Land Acquisition Officer-cum-Mandal Revenue Officer, Tirupati (Tirupati Rural) is filed questioning the order of the III Additional District Judge, Tirupati dt. 27-3-2001 passed in OP No.111/1998 enhancing the market value from Rs.35,000/- to Rs.55,000/- per acre.

An extent of Ac.22-33 cents of land in S.No.355 to 359, 361 and 362 situated at Pudipatla village was acquired for the purpose of formation of a new tank called "Dalavai Cheruvu" in Tirupati Rural Mandal, Chittoor District by issuing draft notification under Sec. 4(1) of the Act on 23-6-1990 dispensing with Sec. 5-A enquiry of the Act. Advance possession of the land was taken on 27-3-1980. The Land Acquisition Officer after complying with all necessary formalities passed an award fixing the market value of the acquired land at Rs.35,000/- per acre being award No.1/91-92A/211/90 dt. 29-2-1992 with all statutory benefits. Dissatisfied with the fixation of market value, the claimants sought for a reference under Section 18 of the Act and on reference being made to the civil court, the claimants appeared and filed a claim statement claiming compensation for the acquired land at Rs.1,00,000/- per acre. The Land Acquisition Officer filed a reply while supporting the award stated that the claimants have failed to produce any documentary evidence to substantiate the claim made by them nor raised any objection with regard to the measurements and prayed for rejection of the reference.

The Land Acquisition Officer himself examined as P.W.1 and award dt. 29-2-1992 was marked as Ex.A-1. To prove the market value claimed, the first respondent-claimant and the second respondent themselves examined as R.W.1 and R.W.2, apart from the vendors under Ex.B-4 and B-1 as R.W.3 and R.W.4 respectively. Exs.B-1 to B-4 were marked on behalf of the respondents-claimants.

The reference court after considering the oral and documentary evidence adduced by the parties, enhanced the market value for the acquired land from Rs.35,000/- to Rs.55,000/- per acre and directed the Land Acquisition Officer to pay the enhanced compensation together with solatium at 30% and additional amount and interest thereon as awarded by the Land Acquisition Officer and further directed the Land Acquisition Officer to pay 12% additional amount over the market value from the date of taking possession of the land to the date of notification ie., 27-3-1980 to 3-10-1990.

Learned Government Pleader for Appeals would contend that the reference court committed an irregularity in ordering 12% additional amount over the market value from the date of taking possession of the land to the date of notification as the same was already awarded on Rs.35,000/- by the Land Acquisition Officer. He further contends that the enhancement of compensation from Rs.35,000/- to Rs.55,000/- by relying upon Ex.B-2-preliminary valuation certificate and Ex.B-3-letter addressed by the Land Acquisition Officer to the District Collector is erroneous.

On the other hand, Sri O.Manohar Reddy, learned counsel appearing for the respondents-claimants while sustaining the order of the reference court enhancing the compensation contended that once the claimants were dispossessed from the land 10 years prior to issuance of notification, they are entitled to compensation in the form of interest or whatever means. To buttress the said submissions, he placed reliance on the following judgments:

1. MADI SHETTI BALA RAMUL (D) BY LRS V. LAND ACQUISITON OFFICER1

2. R.L.JAIN (D) DIED BY LRS V. DDA2

In view of the rival submissions, the points that arise for our consideration in this appeal are: 1. What is the true market value, the claimants are entitled to? 2. Whether the reference court committed any irregularity in awarding 12% additional compensation from the date of taking possession to the date of issuance of notification?

Point No.1: The claimants who filed claim statement in the form of counter stated that the Land Acquisition Officer initially estimated the value of the acquired land at Rs.50,000/- per acre while making proposal to the Government, but however the said officer scaled down the estimated value of the land, without assigning any cogent reasons, at Rs.35,000/- and thus passed the award arbitrarily and the Land Acquisition Officer failed to award 12% additional market value as per the Amended Act 64/1984 from the date of taking possession of the land as well as the interest on the additional market value and solatium.

The Land Acquisition Officer who himself examined as P.W.1 deposed that he passed award on 29-2-1992 covered under Ex.A-1. While passing award he has taken into consideration 12 sale transactions of Kaluru village for the same period. He relied upon three sale transactions ie., item Nos. 3,7,10 from the list of sale transactions of Kaluru village and fixed the market value at Rs.35,000/- per acre. In the cross-examination, he admitted that he has not visited the acquired land and not obtained the copies of sale deeds from the Sub-Registrar's office. He had no occasion to see the contents of sale deeds. His predecessor (Mandal Revenue Officer) who visited the land prepared topography and the respondents have claimed compensation at the rate of Rs.1 lakh per acre. He fixed the compensation at Rs.35,000/- per acre. The claimants did not produce any documentary evidence ie., sale deeds in support of their claim. There is no dispute with regard to taking over of the possession of the land. Kaluru village is very nearer to the acquired land. The acquired land comes within the revenue accounts of Pudipatla village. He has no knowledge about Ex.B-3 letter and Ex.B-2. Ex.B-3 file number is different from the concerned file. Exs.B-2 and B-3 files seems to have been opened in 1987. Exs.B-2 and B-3 are only Xerox copies and they are not certified by the Mandal Revenue Officer. He cannot say whether the contents of Exs.B-2 and B-3 are true or not. The land covered by Ex.B-1 is classified as Punja. The acquired land is situated at a distance of 6 KM from Tirupati, which is a famous pilgrim center, and the acquired land is situated nearer to the road leading from Mangapuram to Tirumala. The acquired land has immense potential value.

R.W.1, who is the one of the claimants ie., R-1, deposed that the lands are at a distance of 6 KMs from Tirupathi, and Mangapuram railway station is at a distance of 100 yards from the acquired land and the lands are fertile in nature. Some lands in Kaluru village were also costing at the rate of Rs.35,000/- per acre during the relevant period. Under Ex.B-1-registered sale deed dt.14-3-1990, 40 cents of land situated in the Kaluru village, which are at a distance of 2 furlongs from the acquired land, was sold at Rs.60000/-. There are 21 coconut trees were existing, each coconut tree was valued at Rs.1000/-. The acquired lands are more fertile than the lands covered by Ex.B-1. Out of the total extent of land acquired R-2 is the owner of 11-16 1/2cents. He denied a suggestion that the lands covered by Ex.B-1 are situated in a different village and cannot be taken as a basis for determining the value of these acquired lands.

R.W.2, who is one of the claimants, while corroborating the evidence of R.W.1 stated that the acquired lands are more fertile than the lands covered under Ex.B-1 sale deed. The land covered under Ex.B-4 is at a distance of one furlong from the acquired land. The land value was shown at Rs,1 lakh per acre in Ex.B-4-sale deed. The acquired land is at a distance of 1 1/2 KM from Tirupati Municipal limits. The present market value of the land is about Rs.5 to 6 lakhs per acre. He denied a suggestion that Exs.B-1 and B-4 were brought into existence foreseeing the land acquisition proposals and only to enable the claimants to claim more compensation. He does not know whether land to an extent of Ac.1-50 cents was sold at Rs.45,400/- under document No.438 dt. 5-5-1988.

R.W.3 deposed that they sold 38 1/2 cents of land to one Usha under a registered sale deed dt. 20-2-1987(Ex.B-4) The acquired lands are situated at a distance of half a furlong from the lands covered under Ex.B-4. In the cross- daughter of Mokkala Subba Reddy who is father of the second respondent, for Rs.40670/-

R.W.4, who is an independent witness, is the vendor of the land covered under Ex.B-1 sale deed Exs.B-2 and B-3 are pre-valuation certificate and letter addressed by the Mandal Revenue Officer to the District Collector dt. 9-10-1987 respectively are Xerox copies and they have not been certified by the Mandal Revenue Officer that they are the true copies of the originals of Exs.B-2 and B-3. In the absence of any evidence adduced by the claimants by summoning Exs.B- 2 and B-3 from the concerned office, the same cannot form basis for determining the market value for the acquired land. Then remains the sale deeds covered under Exs.B-1 and B-4. Ex.B-4-sale deed was executed by the sister of the second claimant to the daughter (Usha) of the father of the second respondent cannot be taken into consideration for the reason the said sale deed was brought into existence to claim higher compensation since they are belonging to one family. If we exclude Ex.B-4 sale deed from consideration, the one and the only document remains for consideration is Ex.B-1 sale deed, whereunder 40 cents of land was sold at Rs.76,800/- per acre and the land covered under Ex.B-1 is very nearer to the acquired land. Nothing contra evidence has been let in by the Land Acquisition Officer to discredit the document. R.Ws.1 and 4 admitted the execution of the sale transaction covered under Ex.B-1. In the award, the Land Acquisition Officer has discarded the sale transaction under Serial Nos. 1,5 and 8, whereunder 40 cents of land was sold at Rs.1,25,000/-; 244.88 sq.yards at Rs.96000/- and 296.23 sq.yards was sold at Rs.11,11,892/-, which are 1000 meters away from the acquired land. In view of the same, fixation of the market value by relying upon the sale transaction at Rs.55,000/- per acre by the reference court is justified having regard to the proximity of the land covered by Ex.B-1. Even if the value of 21 coconut trees, namely, Rs.21,000/- is excluded from the consideration of

Rs.76800/-, the market value comes to Rs.55,800/-, therefore fixing the market value at Rs.55,000/- is a reasonable compensation, which the claimants are entitled to. The point No.1 is accordingly answered.

Point No.2:

The Land Acquisition Officer awarded interest at 6% on the market value from the date of taking possession of the land ie., from 27-3-1980 to 29-4-1982 ie., to the date of introduction of the Land Acquisition (Amendment) Bill, 1982 ie., Rs.1,27,600/-; and interest at 9% on the market value from the date of introduction of the Land Acquisition (Amendment) Bill, 1982 to one year ie., 30-4-1982 to 29-4-1983 ie., Rs.91440/- and interest at 15% on the market value fixed by him from 30-4-1983 to 27-5- 1991 at Rs.12,31,325/-. In all, Rs.14,50,365/- towards interest for the period from the date of taking possession till the date of payment of compensation ie., 27-5-1991, which the claimants are not entitled to. The same can be questioned by way of writ petition by the Land acquisition Officer if aggrieved by award of interest for the said period. The compensation awarded by the reference court cannot be less than the compensation awarded by the Land Acquisition Officer in view of embargo under Sec. 25 of the Act, therefore, the same cannot be interfered with by this court in an appeal against the orders of the reference court.

It is now fairly well settled that starting point for the purposes of calculating the amount to be awarded under Sec. 23(1-A) thereunder at the rate of 12% per annum on the market value, is the date of notification including interest on the compensation awarded by the Land Acquisition Officer or by the reference court (See: SIDDAPPA VASAPPA KURI V. SPECIAL LAND ACQUISITION OFFICER=2002 (1) SCC 142). Both the judgments cited by the claimants are misplaced to the facts of the present case. To do complete justice, the Supreme Court in MADI SHETTI BALA RAMUL (1 supra) awarded 15% interest per annum on the amount awarded in terms of the award dt. 2-1-1999 for the period they remained out of possession ie., 16-3-1979 to 22-12-1991. Having regard to the peculiar facts and circumstances of the case, the said order was passed by the Supreme Court in exercise of its appellate jurisdiction either under Art.136 or 142 of the Constitution. To do complete justice the High Court cannot exercise the said equitable jurisdiction in a statutory appeal preferred against the judgment of the trial court.

In view of the same, we do not see any merit in the contention advanced by the learned counsel for the claimants that the reference court justified in awarding 12% additional amount over the market value from the date of taking possession of the land to the date of notification, and the said direction is liable to be set-aside and is accordingly set-aside. It is needless to say the claimants are entitled to 12% additional market value on the enhanced compensation from the date of issuance of notification to the date of passing of the award and interest at 9% on the enhanced compensation from the date of notification for a period of one year and thereafter at 15% per annum till the date of payment. Having regard to the fact that the claimants have already paid additional market value and interest at 9% on the compensation of Rs.35,000/- per acre awarded by the Land Acquisition Officer from the date of notification, we award additional market value of 12% only on the enhanced compensation from the date of notification till the date of passing of the award and interest on the enhanced compensation at Rs.55,000/- per acre including 30% solatium and 12% additional market value at 9% per annum from the date of notification for a period of one year and thereafter at 15% per annum till the date of payment.

The Appeal suit is allowed to the extent indicated above. There shall be no order as to costs.

1 2007(9) SCC 650

2 2004(4) SCC 79