

**IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF
TELANGANA**

L.A.A.S.No.418 OF 2008

Between:

The Land Acquisition Officer-cum-
Revenue Divisional Officer,
Nagarkurnool, Mahabubnagar District .. Appellant/Referring
Officer

And

S.V. Jagannatha Rao, rep., by the
General Power of Attorney,
Sri K. Ramachander (Died) and others .. Respondents/claimants

DATE OF JUDGMENT PRONOUNCED : 28.10.2021

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO
AND
THE HON'BLE SMT JUSTICE P.SREE SUDHA**

1. Whether Reporters of Local Newspapers : YES
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : YES
marked to Law Reporters/Journals
3. Whether Their Lordships wish to : YES
see the fair copy of the Judgment ?

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! Counsel for the appellant : Sri Raja Sreepathi Rao,
Government Pleader for
Appeals

Counsel for the Respondents : Sri T.L. Krishna Prasad,
Learned counsel appearing
for respondents 2 and 3

<Gist :

>Head Note:

? Cases referred:

1. ((1988) 2 SCC 150)
2. (2015) 15 SCC 343
3. (2017) 4 SCC 717
4. (2014) 11 SCC 307
5. 2014 SCC Online SC 1699

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The Court made the following:

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO
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L.A.A.S. No.418 of 2008

JUDGMENT: *(Per Hon'ble Sri Justice P. Naveen Rao)*

Heard learned Government Pleader for Appeals and Sri T.L. Krishna Prasad, learned counsel appearing for respondents 2 and 3.

2. Acs.11.20 guntas of land in Survey No.257/1 of Waridyal village of Kollapur Mandal, Mahabubnagar District, was acquired for the purpose of relocating temples submerged in Srisailam Irrigation Project. The Land Acquisition Officer determined the market value as Rs.5,000/- per acre. Not satisfied with the compensation determined by the Land Acquisition Officer, claimant sought reference under Section 18 of the Land Acquisition Act, 1894 for enhancement of the compensation. The reference was registered as L.A.O.P.No.308 of 1996 in the Court of Senior Civil Judge at Nagarkurnool. By order dated 30.09.2005, learned Senior Civil Judge enhanced the market value to Rs.15,000/- per acre, awarded solatium at 30% on the enhanced amount, interest @ 4% per annum from the date of taking possession of land for a period of one year and thereafter @ 15% per annum on the enhanced compensation amount and solatium till the enhanced compensation amount is paid or deposited into the Court. Aggrieved thereby, the present appeal is preferred.

3. According to learned Government Pleader, on due assessment of the potentiality, prevailing market rate and the transactions that were made in and around the land in issue, the Land Acquisition

Officer has correctly arrived at the market value as Rs.5,000/- per acre and therefore, there is no justification for the reference Court to enhance the market value. He further submits that on a solitary transaction showing higher market value, the reference Court ought not to have held that the value of the land is more than what was determined by the Land Acquisition Officer having discarded several other transactions relied upon by the claimants. The transaction on which reliance was placed was covering a small piece of land and cannot correctly reflect the actual land value in the surrounding area.

4. The reference Court observed that the transactions covered by Exs.A25 to A29 took place in the year 1977, where the value of the land transacted ranged between Rs.11,200/- and 30,000/- per acre. In view of the location, status of land as BAGANA, potentiality compared to land covered by those transactions, the reference Court opined that in the year 1979, the market value of the subject land ought to be more. The reference Court observed that the land covered by Ex.A25 was found to be proximate to the land in issue compared to the transactions covered by Exs.A26 to A29. The reference Court assessed the evidence of P.W.8. The reference Court opined that the land covered by the transaction in Ex.A25 is nearer, has similar potentiality with that of the land under acquisition and the said transaction was true and valid transaction. The reference court has taken the transaction value covered by Ex.A25 as basis to arrive at just compensation. In his deposition, the Land Acquisition Officer also accepted the status of land as BAGANA.

5. In Ex.A25, the value determined was Rs.11,200/- per acre. This transaction took place on 27.06.1977. It was one year eight

months prior to the notification under which the land in issue was acquired. Therefore, the reference Court added 15% to the then value and arrived at the market value, rounded off to Rs.15,000/- per acre and accordingly the compensation was determined.

6. The contention of learned Government Pleader that one solitary transaction, that too covering small extent of land cannot reflect true market value of the land, is stated to be rejected in the facts of this case. In land acquisition proceedings, paramount consideration is to determine just compensation to a land owner whose land was compulsorily acquired. In determining just compensation, it is permissible to do guess work. The Court is required to look into various aspects to arrive at just compensation. One of them is contemporaneous transactions in near by land. As long as the transaction of land adjacent to land covered by the acquisition is found to be genuine and supported by evidence, reliance on said transaction cannot be held as invalid only because the extent covered by the said transaction is small. Further, no other evidence is brought on record by Land Acquisition Officer to discard the opinion expressed by the reference Court. However, when a solitary transaction covering a small extent of land is relied to claim higher compensation, the reference Court has to be cautious in assessing the evidence.

7. In **Administrator General of West Bengal vs. Collector, Varanasi**¹, though a case dealing with urban land, the view expressed therein is of immense help in determining market value of any land. Hon'ble Supreme Court observed that:

¹ ((1988) 2 SCC 150)

“8. The determination of market value of a piece of land with potentialities for urban use is an intricate exercise which calls for collection and collation of diverse economic criteria. The market value of a piece of property, for purposes of Section 23 of the Act, is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. The determination of market value, as one author put it, is the prediction of an economic event viz. the price outcome of a hypothetical sale, expressed in terms of probabilities. ***Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual, and indeed the best, evidences of market value. Other methods of valuation are resorted to if the evidence of sale of similar lands is not available.***”

(emphasis supplied)

8. In **Chandra Bhan vs. Ghaziabad Development Authority and others**², the Hon’ble Supreme Court observed that as long as sale is an arm’s length transaction, it would merit consideration (paragraph No.25). Hon’ble Supreme Court upheld determination of higher market value by placing reliance on sale transactions on adjacent land though covering small parcels, when they were at arm’s length and accepted by the reference court (paragraph No.27).

9. In **Ali Mohammad Beigh And Others vs. State of Jammu and Kashmir**³, the Hon’ble Supreme Court faulted the decision of the reference Court rejecting the plea for enhancement on the ground that the concerned sale deed covered a small extent of land, when claim was supported by oral evidence of the witness. (paragraph No.11).

10. In **Bhule Ram vs. Union of India and another**⁴, on review of precedent decisions, the Hon’ble Supreme Court held as under:

“16. In view of the above, the law can be summarised to the effect that the market value of the land is to be assessed keeping in mind the limitation prescribed in certain exceptional circumstances under Section 23 of the Act. A

² (2015) 15 SCC 343

³ (2017) 4 SCC 717

⁴ (2014) 11 SCC 307

guesswork, though allowed, is permissible only to a limited extent. The market value of the land is to be determined taking into consideration the existing use of the land, geographical situation/location of the land along with the advantages/disadvantages i.e. distance from the national or State highway or a road situated within a developed area, etc. In urban area even a small distance makes a considerable difference in the price of land. However, the court should not take into consideration the use for which the land is sought to be acquired and its remote potential value in future. In arriving at the market value, it is the duty of the party to lead evidence in support of its case, in absence of which the court is not under a legal obligation to determine the market value merely as per the prayer of the claimant.

17. There may be a case where a huge tract of land is acquired which runs through continuous, but to the whole revenue estate of a village or to various revenue villages or even in two or more States. Someone's land may be adjacent to the main road, others' land may be far away, there may be persons having land abounding the main road but the frontage may be varied. Therefore, the market value of the land is to be determined taking into consideration the geographical situation and in such cases belting system may be applied. In such a fact situation every claimant cannot claim the same rate of compensation.”

11. In **Ram Kanwar vs. State of Haryana**⁵, the Hon'ble Supreme Court held as under:

“12. It is settled law that prices fetched for similar lands with similar advantages and potentialities under *bona fide* transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value of lands.

xxxx

15. The Reference Court, therefore, was not justified in ignoring the best piece of evidence-the sale deeds and instead, relying on the comparable award which would otherwise be the best evidence should such sale deeds not been *bona fide* or be for lands that did not lay proximate to the acquired lands. The High Court, in our considered opinion, has rightly rejected the reasoning of Reference Court and considered the un-assailed sale deeds as true estimate of market value of acquired lands.”

12. Having regard to the view expressed by the Hon'ble Supreme Court in the above decisions, it is safe to assume that even if a transaction covers small extent of land compared to the land acquired, in a given case, it can be relied on to determine the market

⁵ 2014 SCC Online SC 1699

value of the land in issue. But when reliance is on a sale of land covering small extent, the Reference Court or the High Court has to consider all aspects carefully to make a realistic assessment of value of land acquired. The assessment is to ensure that land owner gets fair compensation and his claim is not fanciful or imaginary. In assessing a sale transaction, what is paramount to assess is, whether it was the price offered by a willing purchaser to pay to the willing seller for a property, having due regard to its existing conditions, with all its existing advantages and its potential possibilities.

13. In the case on hand, the transaction covered by Ex.A25 is supported by deposition of PW.8. The reference Court noted that it was a fair transaction. The reference Court also noted the sale transactions covered by Exs.A26 to A29. We are satisfied that the reference Court has considered all aspects, thoroughly examined the evidence brought on record and evaluated the transactions that took place in and around the land in issue to arrive at just compensation and to award higher compensation than the one determined by the Land Acquisition Officer. We do not see any error committed by the reference Court in arriving at the market value as Rs.15,000/- per acre warranting interference by this Court. The Appeal fails and is accordingly dismissed. Miscellaneous petition, if any, pending in this appeal shall stand closed.

P.NAVEEN RAO, J

P.SREE SUDHA, J

Date:28.10.2021

Note:- L.R. Copy be marked
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