

Ahmed Yar Jung,

Vs

The Collector Land Acquisition, Hyderabad

Civil Appeals Nos. 1820-1821 of 1967

(K. K. Mathew, A. Alagiriswami JJ)

26.02.1974

JUDGMENT

ALAGIRISWAMI, J. -

1. The Government of Hyderabad acquired appellant's land measuring 18 acres 21 guntas in survey No. 116 situated within the Municipal limits of Hyderabad City under the Hyderabad Land Acquisition Act. The notification under Section 3(1) of that Act corresponding to Section 4(1) of the Land Acquisition Act of 1894 was issued on October 26, 1950. The appellant claimed compensation at the rate of Rs. 25 per sq. yard but the Land Acquisition Officer awarded compensation at the rate of O. S. Rs. 7,500 per acre. At the request of the appellant a reference was made to the City Civil Court which enhanced the compensation to O.S. Rs. 4 per sq. yard. The usual solatium of 15 per cent and interest at the rate of 6 per cent on the compensation from the date of taking possession of the land were also awarded. Against this judgment both the appellant as well as the State filed appeals, the appellant claiming compensation at Rs. 12 per sq. yard. The High Court allowed the appeal file by the State and dismissed the appeal of the appellant thus restoring the compensation awarded by the Land Acquisition Officer. These two appeals have been filed against those two judgments on certificate granted by the High Court.

2. Mr. Suryaprakasam appearing on behalf of the appellant stated at the outset that he would be satisfied with the compensation awarded by the trial Court.

3. There is a curious lack of really useful evidence in this case. Of oral evidence there is plenty but it is not possible to place full reliance on them. The evidence of the sale by P.W. 1, the evidence of the so-called expert, P.W. 2, and the evidence of P.W. 3 are not of much use because all of them relate to sales of land far away from the land acquired. We are unable to place any reliance on the evidence of P.W. 5 about the offer which he made to purchase the appellant's land. He seems to have come forward to give evidence merely to oblige the appellant. The Commissioner's report as well as the plan (Exhibit No. 52) which we have scrutinised also make it clear that many sale deeds produced before the trial Court relate to lands which were far away from the appellant's land. There were a number of factories, bungalows, schools near the acquired land. But that was in 1955. Admittedly the area known as Chikkedpally was not even developed in 1950. Nor do we find the inspection notes by the Judge of the City Civil Court very helpful.

4. We find, however, that the land in the industrial estate adjoining the acquired land has been given on a 99 year lease at a premium of Rs. 7,500 per acre from September 1950, though it was Rs. 2,000 in 1941, Rs. 2,500 in 1942 and Rs. 4,840 in August, 1950. Unfortunately no attempt was made to elicit the rent paid nor is there any evidence to show whether these lands are developed

lands. If we knew the rent we could have an approximate idea of the value of the land and if we knew whether the lands are developed lands we can get an approximate idea, of the value of the acquired land. From D.W. 2's evidence it appears that in the Takhta which he prepared along with the patwari for the industrial land mention is made of plots having been sold at the rate of Rs. 3, Re. 1 and 15 annas, though he is not able to say at what distance the land sold at 15 annas is situated. D.W. 4 sold a land near the acquired land at the rate of Re. 0-12-0 per sq. yard in 1945. It appears that the purchaser sold it in 1950 at the rate of Rs. 3 per sq. yard Here again unfortunately though this witness was cross-examined about his signature on the report dated December 7, 1950 in the file of the Collector, which apparently is what D.W. 2 was also referring to, specific questions were not put to him either by the appellant or on behalf of the State about the sale mentioned therein at Rs. 3 a square yard of the land which he himself had sold in 1945 at Re. 0-12-0 a sq. yard. But even so we consider that a reasonable inference could be drawn from these facts that the land was sold at Rs. 3 per sq. yard a little before the notification under Section 3(1) in this case. This is all the evidence that is on record.

5. The learned Judge of the City Civil Court arrived at an average of the rates at which various plots of land were sold. He thought that as the evidence produced by the petitioner showed that small pieces of land were sold at rates ranging from Rs. 8 to Rs. 25 per square yard, the market value of the land in dispute could be fixed at Rs. 8 per sq. yard, including the development charges, and making allowance therefor fixed the compensation for the acquired land at Rs. 4 per sq. yard. The learned Judges of the High Court have referred at length to the various pieces of evidence, which we have already referred to, and on the ground that the evidence produced by the appellant was not sufficient to establish that the market value of the acquired land was Rs. 12 per sq. yard or Rs. 4 per sq. yard on the date of acquisition, as was found by the trial Court, or that it was more than what had been awarded by the Collector, dismissed the appellant's appeal and allowed the appeal filed by the State, as we have already mentioned.

6. It should be mentioned that the land Acquisition Officer has not relied upon any particular document for arriving at the compensation he awarded though he has also mentioned a number of sale deeds. There is, however, one piece of evidence the importance of which neither Court appreciated, that is, the sale deed by the vendee from D.W. 4, Sai Reddi. At the time of the notification under Section 3(1) he had sold it at Rs. 3 per sq. yard and we consider that this can be safely taken as the basis on which compensation can be awarded. We are aware that this does involve some guess work but there is as little evidence to support the conclusion of the Land Acquisition Officer or the conclusion of the trial Court. The High Court was not, therefore, justified in basing its decision wholly on the Land Acquisition Officer's award. The only safe guide we have been able to find is the re-sale of the land sold by Sai Reddi which is near the acquired land.

7. Shri Rangam appearing on behalf of the Land Acquisition Officer contended that as the trial Court itself had proceeded on the basis that a sum of Rs. 4 per sq. yard should be deducted from the value of Rs. 8 per sq. yard in order to make allowance for the cost of development and for the fact that the land acquired is of a large area, we should not take the rate of Rs. 3 per sq. yard as the basis for awarding compensation in this case. But this leads to an absurdity in the sense that far from getting any compensation the claimant will get a minus compensation. We think that considering the fact that Sai Reddi's plot is small one and we are dealing with a large extent of land compensation at the rate of Rs. 2.50 per sq. yard would be reasonable. In coming to the conclusion that Rs. 2.50 per sq. yard would be a reasonable compensation we are also taking into account the lands given on 99 years' lease in the industrial estate at a premium of Rs. 7,500 per acre. When the premium itself is Rs. 7,500 per acre the annual rental is also bound to be considerable. And so the compensation in

this case should be much more than Rs. 7,500 an acre. We repeat once again that this case does involve a lot of guess work. But we think we would be doing justice between the parties if we award compensation at the rate of Rs. 2.50 per sq. yard. The usual solatium at the rate of 15 per cent will be added to the compensation thus arrived at and interest at 6 per cent will have to be paid thereon from the date of taking possession. The parties shall bear their own costs.

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