

Bangaru Narasingha Rao Naidu and Others

Vs

Revenue Divisional Officer, Vizianagaram

Civil Appeals Nos. 1719 and 1720 of 1969

(R. S. Sarkaria, O. Chinnappa Reddy JJ)

09.10.1979

JUDGMENT

CHINNAPPA REDDY J.

1. Pursuant to notification dated November 26, 1952, issued under Section 4 of the Land Acquisition Act, land of the extent of one acre, 31566 square feet in T.S. Nos. 1123/1A and 1C and 1123/1B and 1D belonging to the appellants in these two appeals was acquired for the purpose of constructing houses for sweepers and scavengers who had been uprooted from where they were previously living as a result of the extension of the K.G. Hospital in Visakhapatnam. The Land Acquisition Officer first separately calculated the average price of land under deeds of sale of land in the neighbourhood in each of the three years 1950, 1951 and 1952 and thereafter took the average of the three figures so obtained. He awarded compensation at that final average rate which was Rs. 6.14 annas per sq. yard. On references made under Section 18 of the Land Acquisition Act at the instance of the claimants the learned Subordinate Judge of Visakhapatnam enhanced the compensation to Rs. 11 per sq. yard. The learned Subordinate Judge, primarily, took into account Exs. B-11 and B-12 which were sale deeds dated September 12, 1950 and January 29, 1951, in respect of parcels of land out of the very acquired land. Before the learned Subordinate Judge, the Land Acquisition Officer, placed reliance upon certain transactions of sale in respect of plots of land in the neighbourhood of the acquired land. In regard to the plots of land covered by Exs. B-1 to B-10, the learned Subordinate Judge expressed the view that those plots of land were purchased by the very squatters who were in possession of the land and, therefore, they did not fetch a good price. Similarly in regard to the plots of land covered by Exs. B-13, B-14 and B-16 the learned Subordinate Judge observed that they fetched a low price because they were very near the public latrine. The Land Acquisition Officer preferred appeals to the High Court of Andhra Pradesh. The High Court reduced the compensation to that awarded by the Land Acquisition Officer. The High Court while not disagreeing with the views of the learned Subordinate Judge that Exs. B-11 and B-12 were genuine transactions, also took into consideration the transactions covered by Exs. B-1 to B-10, B-13, B-14, B-15 and B-16. The claimants have preferred these two appeals.

2. There cannot be any doubt that the best evidence of the market value of the acquired land is afforded by transactions of sale in respect of the very acquired land, provided of course there is nothing to doubt the authenticity of the transactions. In the present case we have two such transactions of sale, of parcels of the acquired land, Exs. B-11 and B-12. The learned Subordinate Judge relied upon them in assessing the compensation. The High Court also recorded a finding that Exs. B-11 and B-12 were genuine transactions. The High Court, however, thought that the price under these documents might have been inflated as it was known even in 1948 that some land was proposed to be acquired for providing houses to the sweepers and scavengers. We are afraid that this

was pure speculation on the part of the High Court. In fact what was proposed to be acquired in 1948 was some other land. That proposal was later abandoned and there is nothing to indicate that there was any proposal for the acquisition of land in T.S. No. 1123 at the time when the sales under B-11 and B-12 were effected. The Land Acquisition Officer who gave evidence RW 1 stated as follows : "I have no personal knowledge to state that the transactions were not genuine or that the price mentioned in the sale deeds are not genuine. We also have no other evidence to show that the said transactions were not genuine".

3. The High Court appeared to place reliance upon Exs. B-1 to B-10. We consider the High Court was wrong in thinking that Exs. B-1 to B-10 could afford proper guidance in the matter of assessing compensation for the acquired land. Apart from the circumstance that they related to plots of land which were not parcels of T.S. No. 1123, the evidence quite clearly shows that those plots of land were in the possession of squatters. The High Court thought that because the sales were voluntary sales the price which was paid under Exs. B-1 to B-10 was a fair price. That is not true. That is to ignore the circumstance noticed by the learned Subordinate Judge that lands in the occupation of squatters will not fetch a fair price unless the lands are cleared of squatters.

4. In regard to the transactions B-13, B-14 and B-16, the High Court referred to the evidence of PW 1 to the effect that the lands covered by them were very near a public latrine but observed that there was no other evidence apart from the evidence of that witness. The High Court gave no reason for rejecting the testimony of PW 1.

5. We may also mention here that the High Court stated repeatedly that no objection was taken by the claimants to Exs. B-1 to B-10, B-13, B-14 and B-16 before the Land Acquisition Officer. We are unable to understand what the High Court precisely meant by this statement. If the High Court meant that the claimant should have opposed the consideration of these documents by the Land Acquisition Officer a clear answer is that they did not have the opportunity of doing so since the Land Acquisition Officer did not inform them in advance on which document he proposed to rely for making his award. In any case, whether objection was raised or not before the Land Acquisition Officer, it was open to the claimants to adduce evidence before the Court in order to point out that the Land Acquisition Officer ought not have relied upon the transactions on which he relied and that he should have been guided by some other transactions. We notice that the conclusion of the High Court was considerably coloured by the statement repeatedly made that the claimants did not object to these documents before the Land Acquisition Officer.

6. We are satisfied that the High Court should not have interfered with the award of compensation made by the learned Subordinate Judge for the acquired land at the rate of Rs. 11 per sq. yard. In this regard, the judgment of the High Court is set aside and the judgment of the trial Court is restored. In regard to certain other matters relating to interest and compensation for severance, etc. no argument was advanced before us and the judgment of the High Court is confirmed to that extent. The appeals are allowed as indicated, with costs throughout.

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