

Land Acquisition Officer, Hyderabad and Others

Vs

Male Pullamma and Others

Civil Appeals No. 5250 of 1996 with nos. 5253 of 1996 and 5252 of 1996

(K. Ramaswamy, G. T. Nanavati JJ)

21.03.1996

ORDER

1. Delay condoned.

2. Leave granted.

3. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') acquiring 89 acres, 37 gunthas of land situated in Siddanti village of Shamshabad in Ranga Reddy District of Andhra Pradesh was published on 16-10-1982. The land Acquisition Officer in his award dated 13-5-1987 determined compensation @ Rs 20,000 per acre. In addition, he also awarded Rs 63,616 towards the value of the structures constructed on the land in which poultry farms were set up. On reference, the Subordinate Judge, Ranga Reddy District by his award and decree dated 20-2-1991 enhanced the compensation to Rs 35,000 per acre. In addition, he also awarded Rs 50,000 more than the amount awarded by the Land Acquisition Officer towards the value of the structures. On appeal, the Division Bench of the High Court in ASs. Nos. 1176 and 2077 of 1991 by order dated 8-7-1993 enhanced the compensation to Rs 14 per square yard which worked out to Rs 67,800 per acre and remitted the case with regard to determination of value of structures. Thus this appeal by special leave.

4. Shri Venugopal Reddy, learned Senior Counsel for the respondents, contended that this Court in P. Ram Reddy v. Land Acquisition Officer ((1995) 2 SCC 305), considering various factors in evaluating the market value, stated seven circumstances to be taken into consideration in determining the compensation. The High Court accepted the sale instance Ex. A-4 dated 8-9-1982 which is earlier in point of time than the date of the notification under which the land was sold at Rs 30 per square yard. The High Court, therefore, after giving deductions at 53% towards the developmental charges etc. determined the market price at Rs 14 per square yard. The fixation of the market value, therefore, is not vitiated by any error of law. He also contended that the High Court has recorded a finding that the lands are possessed of potential value. On that basis, deduction towards further development was given and fixation of the market value cannot, therefore, be said to be illegal.

5. We find no force in the contention. It is seen that the respondents themselves had admitted during cross-examination that the lands were agricultural lands as on the date of the notification. They had set up a poultry farm in it and to that small extent it was being used as such. Both the Reference Court and the Land Acquisition Officer found, as a fact, that the lands are agricultural lands. The High Court has noted in the judgment that some development had already taken place around the area and in the neighbourhood there is a railway station, hospital and school etc. On that basis the

High Court has held that the lands had the potential value for building purposes. The finding is wholly unsustainable on the basis of the evidence on record. It is seen that as on the date of the notification, admittedly, the lands were being used for agricultural purposes and a part of the land was used for poultry purposes. Under these circumstances, it could not be said that the lands have the potentiality to be used as building sites as on the date of the notification. Sale deed dated 8-9-1982 (Ex. A-4) was executed just before the notification was published under Section 4(1) in respect of an extent of 198 square yards of land which worked out to Rs 30 per square yard. By no stretch of imagination it could form the sole basis for determination of the compensation. Ex. A-4 is, therefore, rejected as no prudent purchaser would be willing to purchase vast extent of land on that basis. The feats of imagination of the Division Bench of the High Court had run riot.

6. When Ex. A-4 is excluded from consideration, the only question that arises is : whether the lands could be determined as possessing building value in hypothetical layout, as contended by Shri Venugopal Reddy. In P. Ram Reddy case ((1995) 2 SCC 305) the lands were abutting the developed area in which the building plots were sold for those purposes, as was admitted by the Land Acquisition Officer which was noted in the Judgment. In view of that development, this Court had laid down the criterion in determining the market value. The ratio thereof has no application to the facts in this case. The question of deduction would arise only when the lands are found to have potential value and there is evidence of development in the neighbourhood. Facts, as found by the Reference Court and also the Land Acquisition Officer, clearly indicate that there was no development in the area or in the neighbourhood as on the date of the notification. Under those circumstances, the High Court was wholly wrong in determining the market value treating the acquired lands as possessing potential value. The next question is : what would be the just and adequate compensation which the lands are capable of fetching ? In view of the findings of the Reference Court that the lands are agricultural lands, we think that just and proper compensation would be Rs 40,000 per acre. With regard to the value of the structures, the remand order is maintained. The Court will determine the same according to law.

7. The State appeals are accordingly allowed. The claimants' appeal is dismissed. No costs.