

G. Narayan Rao

Vs

Land Acquisition Officer

Slp (C) No. 12895 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

15.07.1996

ORDER

1. The petitioner questions the correctness of the judgment and order dated 30-8-1995 made in Appeal No. 6 of 1987 by the Division Bench of the Andhra Pradesh High Court, Hyderabad. The petitioner's land in an extent of 7 acres 25 guntas situated in Nizamabad town was acquired by the Government to provide house-sites to the poor by publication of the notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act"). On 22-9-1976, the petitioner claimed compensation @ Rs 300 per sq. yd. The Land Acquisition Officer awarded @ Rs 30,000 per acre. On reference, the Additional District Judge, Nizamabad had enhanced the compensation at Rs 63 per sq. yd. and after deducting 1/3 for development charges awarded Rs 46 per sq. yd. by his award and decree dated 25-6-1986. The High Court reversed the decree and awarded compensation @ Rs 32,000 per acre with additional benefits under the Amendment Act 68 of 1984. Shri Prakash Reddy in his usual through preparation and vehemence contended that the Division Bench was not right in refusing to remit the matter to the court for fresh trial. As per the law then existing, it was not necessary for the landlord to examine the witnesses connected with the sale deeds Exhibits A-21 and A-22 relied on and accepted by the Reference Court which were proximate to the point of time and adjacent to the land offering comparable rate to award compensation. He also contended that the lands are possessed of potential value as building sites since they are situated in the municipal limits of Nizamabad. The potential value should be considered and market value determined on that basis. He further contended that the Land Acquisition Officer had himself admitted in his evidence that a small sale deed to an extent of 200 sq. yds. sold to statutory bodies had secured a rate worked out at Rs 47 per sq. yd. That would provide the basis to determine the market value after due deduction. At any rate, as requested for in the High Court, the High Court would have remitted the matter for decision afresh. Having given our due consideration to the forceful contentions of the counsel, we find no merit in any one of the contentions.

2. It is seen that, admittedly, neither the vendor nor the vendee of the sale deeds, Exhibits A-21 and A-22 was examined. It is settled law from the decisions of this Court starting from Collector v. Dr Harisingh Thakur [(1979) 1 SCC 236 : AIR 1979 SC 472] and that of the A.P. High Court in Tehsildar, Land Acquisition v. P. Narsingh Rao [(1985) 1 APLJ 99 : (1985) 2 Andh LT 492] that either the vendor or the vendee should be examined in proof of the documents to establish passing of the real consideration under the documents, the nature of the respective lands and whether the documents are genuine documents etc. It is for the court to consider all the relevant facts to accept the correctness of the sale deeds and then consider whether they should form the basis to determine compensation. In the absence of proof of the above facts there would be no evidence for the court to place reliance on untested documents. The Reference Court, therefore, was clearly in error in action upon the untested sale deeds to determine the compensation @ Rs. 46 per sq. yd. after due

deduction.

3. The High Court elaborately considered the nature of the land, situation in the developed area to find out whether the lands were possessed of potential value. It was held that the layout sanction was obtained three years after publication of the notification under Section 4(1) of the Act. There was no development in the neighbourhood. It must be established, as a fact, that the potential purpose does exist as on the date of the notification, the prevailing conditions in the market, the existence of the construction of building activities in the neighbourhood and that other lands in the neighbourhood possessed similar conditions. The High Court relied on recent judgments of this Court in *Land Acquisition Officer v. Jasti Rohini* [(1995) 1 SCC 717] and *P. Ram Reddy v. Land Acquisition Officer, Hyderabad Urban Development Authority* [(1995) 2 SCC 305], etc. It is settled law that the court in determining the compensation should sit in the armchair of a willing vendee and determine whether in the given facts and circumstances he would be willing, depending upon the prevailing market conditions, to offer the rates which the court proposes to determine as a prudent purchaser. In case of approved layout, it is equally settled law that layout was obtained in normal course of business venture. The court must consider the suitability of the acquired land for putting up the buildings for residential, commercial or industrial buildings which have already come up in the neighbourhood and also the possibility to obtain amenities like water, drainage, electricity supply etc. Absence of statutory impediments like obtaining sanction for layout would be yet another relevant circumstance. On taking all material and relevant facts into consideration, the court would consider whether the willing vendee would offer the price at which the court proposes to determine. The determination of the compensation under those circumstances must be just and adequate. The High Court considered all these relevant circumstances and held that the lands are not possessed of potential values as on the date of the notification to determine the compensation on yardage basis. It is not in dispute that in a related acquisition in OP No. 361 of 1997, the Court determined the compensation @ Rs 32,000 per acre for the lands in the neighbourhood and based upon it the High Court confirmed as under :

"Keeping that in view, as a result of the above discussion we have to hold that the award on OP No. 361 of 1997 relied on by the Land Acquisition Officer furnishes a proper 'price basis' for arriving at the market value of the land in question at the relevant time. The learned counsel on both sides accept that the said award was not questioned and it became final. But we have to notice that the Land Acquisition Officer himself proposed to fix the market value of the land in question at Rs 32,000 per acre in view of the fact that the land covered by OP No. 361 of 1997 was further away from the developed localities than the land under the present acquisition. This is borne out by the Master Plan Ex. B-19 and Ex. B-26, which is the relevant portion of the Master Plan though both the lands were located in undeveloped area at the relevant time and were similarly situated from the point of view of potentialities. Land covered by OP No. 361 of 1977 is about one furlong away and further to the north of the present land. We are, therefore, inclined to take the view that the market value of the land in question should be fixed at Rs 32,000 per acre."

4. Accordingly, the High Court determined the compensation @ Rs 32,000 per acre.

5. It would appear that the Land Acquisition Officer stated in his evidence that the land of an extent of 200 sq. yds. was sold to a public authority at a rate worked out at Rs 47 per sq. yd. But, as rightly pointed out by the High Court, the said document was not made part of the record nor anyone was examined in proof of the circumstances in which sale came to be made. Under these circumstances,

the High Court rightly was not inclined to accept that part of the evidence to determine compensation in this case. We do not find any error of any principle of law committed by the High Court warranting interference.

6. The special leave petition is accordingly dismissed.