

**SUPREME COURT OF INDIA**

Shaik Imambi

Vs.

SPL.Dy.Collector. (Land ... on

C.A.No.1345 of 2011

(R.V.Raveendran and A.K.Patnaik,JJ.,)

0 2.02.2011

**ORDER**

**R.V.Raveendran,J.,**

SLP(Civil)No.14294/2007

1. Application for impleadment is dismissed as withdrawn. Leave granted. Heard the parties.
2. The appellant was the owner of a lime orchard measuring 7 acres 84 cents, situated at Dachuru village, Kaluvoy Mandal, Nellore District. The said land and the adjoining lands in all measuring 81 acres 38 cents were acquired for the purpose of fore-shore submersion of Kandleru Reservoir under Telugu Ganga Project in pursuance of a notification dated 4.7.1988 issued under Section 4(1) and a final declaration dated 30.6.1989 issued under Section 6 of the Land Acquisition Act, 1894 ('Act' for short). The appellant's lime orchard consisted of 761 lime trees. A small area therein also contained other trees, that is, 20 coconut trees, 24 cheeni trees, 2 guava trees and 2 drumstick trees.
3. The Land Acquisition Officer passed an award dated 31.8.1989, determining the market value of the said land by income capitalisation method. He valued the income from each lime tree as Rs.80/- per annum. He assessed the age of the trees as six years (except 33 trees which were only about four years old). He assessed the remainder of fruit bearing life of the lime trees as 14 years and therefore applied the multiplier of 14. After making a provision for the fact that 33 trees were only four years old, he arrived the market value with reference to the lime trees as Rs.8,35,957/-. Taking note of the income from the other trees in the orchard, he awarded in all Rs.8,67,003.50p. as compensation. Not being satisfied with the said award, the appellant sought reference to the Civil Court, which by judgment and award dated 29.11.2000, upheld the award and affirmed the compensation determined by the Land Acquisition Officer.
4. Feeling aggrieved, the appellant appealed to the High Court, restricting her grievance to the valuation of 761 lime trees. After considering the evidence, the High Court, by impugned

judgment dated 9.3.2007, allowed the appeal in part. It assessed the annual income as Rs.100/- per lime tree or Rs.76,100/- for 761 trees. The High Court was of the view that the multiplier to be applied should be only 10 and not 14 for determining the market value by capitalisation method. The High Court however did not disturb the multiplier of 14 adopted by the Land Acquisition Officer for determining the compensation with reference to the income of Rs.80/- per tree. Therefore, in regard to the increase of Rs.20/- per tree per annum granted by it, the High Court adopted the multiplier of 10 should be adopted. In other words, the High Court increased the compensation by Rs.1,52,200/- (that is 761 x 10 x 20). Not being satisfied with the said increase, the appellant filed this appeal by special leave.

5. Two contentions are urged by the appellant: (a) The High Court ought to have maintained the multiplier of 14 adopted by the Land Acquisition Officer instead of reducing it to 10 in regard to the increased income adopted by it;

“(b) The income per lime tree ought to have been taken as Rs.200/- per annum, instead of Rs.100/- per annum, having regard to the expert opinion and evidence let in by the parties.

Re. Question (a) “

6. The Land Acquisition Officer had adopted a multiplier of 14 in regard to the annual income of Rs.80/- per lime tree. That has not been disturbed by the High Court. The High Court, however, was of the view that in regard to the increase in income adopted by it, the multiplier should be only 10, relying upon a decision in *Assistant Commissioner-cum-Land Acquisition Officer, Bellary Vs. S.T. Pompanna Setty*<sup>1</sup>,

7. The learned counsel for the appellant contended that the multiplier should not be less than 14 adopted by the Land Acquisition Officer. We cannot accept the contention of the appellant. Having regard to the consistent view taken by this Court, we are of the view that the High Court was right in holding that the multiplier should be 10. This Court has repeatedly held that the standard multiplier should be 10; and that in special circumstances based upon specific evidence regarding the nature, standard, condition of the orchard, the Court may apply a higher multiplier of 12 or 13 or a lower multiplier of 8. [See *Special Land Acquisition Officer vs. P.Veerabhadrappa*<sup>2</sup> *Land Acquisition Officer Malaprabha Dam Project Saundatti Vs. Madivalappa Basalingappa Melavanki*<sup>3</sup>, *Special Land Acquisition Officer vs. Visupax Shankar Nadagouda*<sup>4</sup> and *Revenue Divisional Officer, Kurnool District Vs. M. Ramakrishna Reddy*<sup>4</sup> -. But no such special circumstances are made out. On the facts and circumstances, we are of the view that the finding of the High Court that the multiplier should be 10 does not call for interference.

Re. Question (b)

8. As noticed above, the Land Acquisition Officer assessed the net annual income from each lime tree as Rs.80/- and the High Court assessed the net annual income from each lime tree

as Rs.100/-. The High Court has relied upon the letter dated 5.6.1986 of the Director (Horticulture), Government of Andhra Pradesh (addressed to the Special Collector, Telugu Ganga Project) and the annexed report of the Committee appointed by the Director to evaluate the income, to determine the annual income as Rs.100/- per tree. The said documents estimated the annual income per lime tree as Rs.150 to Rs.200/- (on a yield of 1500 to 2000 lemons per tree) and the cost of cultivation per tree as Rs.34/-.

9. The appellant contended that when the report stated that the annual yield was 1500 to 2000 lemons per tree and the income therefrom was around Rs.150-200/-, the Court ought to have taken note of the maximum income, that is Rs.200/- per annum per tree and after deducting Rs.34/- towards cost of cultivation, ought to have determined the income as Rs.166/- per tree. On the other hand, the respondent submitted that the report having estimated the gross annual income as Rs.150-200/- per tree, after deducting the cost of cultivation and other expenses, the High Court had rightly assessed the annual income as Rs.100/- per tree.

10. There is no specific documentary evidence in regard to the actual income from the orchard. As the reports of experts of the state government assessed the gross annual income from each tree as Rs.150-200/-, it would be appropriate to take the average thereof, namely Rs.175/- as the annual income per tree in this case. If Rs.35/- is deducted towards the cost of cultivation and other expenses as recommended by the experts, the net annual income would have been Rs.140/- per tree or Rs.1,06,540/- for 761 trees.

11. Thus instead of the increase of Rs.20/- per tree per annum awarded by the High Court, we assess the increase to be awarded as Rs.60/- per tree per annum. We affirm the multiplier of 10 adopted by the High Court in regard to the increase, without disturbing the assessment by the Land Acquisition Officer applying the multiplier of for the income of Rs. 80/- per annum per tree, assessed by him. Therefore, the increase in compensation awardable over and above what was awarded by the Land Acquisition Officer is as follows:

“(a) The amount assessed by the Land Acquisition Rs.8,35,957/- Officer with reference to income from 761 lime trees :  $761 \times 14 \times 80$  (with appropriate deduction for 33 lemon trees which were not mature)

(b) Rs.31,046/50 The amount assessed by the Land Acquisition Officer with reference to income from other trees

(c) Compensation awarded by the LAO Rs.8,67,003/50

(a) + (b)

(d) Total increase awarded (including the Rs.4,56,600/- increase of 20/- awarded by the High Court) :  $761 \times 10 \times 60$ ”

12. We accordingly allow this appeal in part and increase the compensation awarded by the Land Acquisition Officer by Rs.4,56,600/- with statutory benefits under section 23(1A) and 23(2) and interest as per section 28 of the Act. The appellant will also be entitled to costs of Rs.15,000/-.

<sup>1</sup>(2005) 9 SCC 0662

<sup>2</sup>(1984) 2 SCC 0120

<sup>3</sup>(1995) 5 SCC 0670

<sup>4</sup>(1996) 6 SCC 0124

<sup>5</sup>(2010) 13 SCALE 0427