Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 5768 OF 2006

K. Devakimma & Ors. Appellant(s)

VERSUS

Tirumala Tirupati Devasthanams
& Anr. Respondent(s)

WITH

CIVIL APPEAL No. 5769 of 2006

P. Sreenivasulu Naidu Appellant(s)

VERSUS

Special Deputy Collector,
Tirupathi & Anr. Respondent(s)

AND

CIVIL APPEAL No. 5770 of 2006

R.N. Rangamma Appellant(s)

VERSUS

Tirumala Tirupati Devasthanams
& Anr. Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. These appeals are filed against the common judgment and order dated 05.07.2004 passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in Appeal No. 120 of 2001 with Cross Objection(SR) No. 17190 of 2001, Appeal No. 1778 of 2001 with Cross Objection(SR) No. 65760 of 2001, Appeal No. 1808 of 2001, Appeal No. 1927 of 2001 with Cross Objection(SR) No. 66074 of 2001, Appeal No. 2421 of 2001 with Cross Objection(SR) No. 82152 of 2001, Appeal No. 1975 of 2002, Appeal No. 1411 of 2003, Appeal No. 2304 of 2002, Appeal No. 155 of 2003 and Appeal No. 1279 of 1999 with Cross Objection(SR) No. 87947 of 1999, Appeal No. 67 of 2001, Appeal No. 726 of 2001, Appeal No. 1849 of 2001, Appeal No. 2031 of 2001, Appeal No. 1304 of 2001 and Appeal No. 1145 of 2003.

2. By impugned judgment/order, the Division Bench of the High Court, partly allowed the first appeals filed by the respondents herein and reduced the rate of compensation payable to the claimants/landowners (appellants herein) at Rs.30/- per square feet, which was fixed by the Reference Court (Civil Court) between Rs.80/- to Rs.100/- per square feet for the land acquired by the State under the Land Acquisition Act, 1894 (hereinafter referred to as "The Act"). Dissatisfied with the judgment/order passed by the High Court, the claimants/land-owners have filed these appeals for enhancement of the compensation.

3. The question that arises for consideration in these appeals is whether the High Court was justified in partly allowing the appeals filed by the respondents herein by reducing compensation at the rate of Rs.30/- per square feet for the land which was acquired by the State or the rate should

have been more than Rs.30/- and, if so, how much, i.e., the one determined by the Reference Court (Civil Court) between Rs.80/- to Rs.100/- per square feet or it should be more than that?

4. In order to appreciate the controversy involved in these appeals, it is necessary to state the relevant facts infra. For the sake of convenience, we shall first advert to the factual matrix of C.A. No. 5769 of 2006 (P. Sreenivassulu Naidu vs. The Special Deputy Collector, Land Acquisition Officer, TTD, Tirupathi & Anr.)

5. The appellant in C.A. No.5769 of 2006 is the owner of the land measuring 4176 square feet as per the State whereas 5220 square feet as per the appellant. This land is situated in T.S. No 40/2 Ward No.3, Block E in village Tirumala. Likewise, the appellants in other two appeals are also owners of the similar land as described in the memo of appeals. The appellants were having their small

shops and hutments on their land wherein they used to carry on their small business for their livelihood.

6. In exercise of the powers conferred under Section 4 of the Act, the State Government issued a notification on 15.01.1987 and acquired the appellant's aforementioned land along with the land of other landowners alike the appellant situated in the same area. The land was acquired for the benefit of the Tirumala Tirupati Devasthanams (in short "the TTD") to enable them to develop Balaji temple town by constructing roads, Kalyanamandapam, Choutries and for providing other civic amenities in the town for the benefit of large number of devotees, who regularly visit the temple for having darshan of Lord Balaji.

7. In other appeals, similar notifications under Section 4 were issued by the State on 19.06.1985, 23.12.1985, 26.05.1986, 29.08.1986, 25.05.1987,

05.08.1987, 21.08.1989 and 26.10.1992 for accomplishing the same public purpose. By these notifications, a large chunk of land was acquired in the same area where the land of the appellant in C.A. 5769 of 2006 was situated. So far as the land belonging to the present appellants was concerned, it was of small dimension.

8. Notification under Section 4 was followed by the declaration under Section 6 of the Act published on 05.08.1987 and likewise it was published on other dates in relation to notifications issued under Section 4 of the Act for adjacent lands.

9. This led to initiation of the proceedings for determination of compensation payable to each landowner including that of the appellants herein by the Land Acquisition Officer (in short 'the LAO'). Notices under Section 9 of the Act were issued to the appellants calling upon them to participate in the land acquisition proceedings to enable the LAO

to determine the fair market value of the land on the date of acquisition as provided under Section 23 of the Act so that compensation would be paid to the landowners at such determined rate. Accordingly, the LAO held an enquiry and after affording an opportunity to the appellants herein passed an award on 12.03.1991 and also on different dates as mentioned in the memo of appeals fixing the market value of the acquired land at Rs.11/- per square feet. So far as the structure built by the appellant in C.A. No. 5769 of 2006 on the land in question was concerned, it was valued at Rs.45,936/-. The LAO, therefore, fixed Rs.11/- per square feet as the uniform rate for awarding compensation for the land to all the landowners. So far as the compensation for built-up structure on the land of individual landowners was concerned, it varied in cases of individual landowner and was accordingly calculated on the basis of extent and quality of

construction made by each landowner. The appellants were, accordingly, paid the compensation for their land and super-structure standing on their land in addition to other statutory compensation such as solatium, interest etc. payable under the Act.

10. Feeling aggrieved by the award, the appellants in all the appeals sought reference to the Civil Court under Section 18 of the Act for re-determination of the compensation made by the LAO. The reference Court, on the basis of the evidence adduced, partly answered the reference in favour of the appellants by award dated 15.07.2002 and accordingly enhanced the rate of the compensation from Rs.11/- per Square feet to Rs.86/- per square feet. In other words, the reference Court held that the appellant was entitled to get compensation for his land at the rate of Rs.86/- per square feet being the fair market value of his land on the date of

notification issued under Section 4 of the Act. In other two appeals, the reference Court by awards passed on different dates enhanced the compensation and fixed it between Rs.80/- to Rs.100/- per square feet.

11. Challenging the legality and correctness of the awards of the Reference Court, the TTD, for whose benefit the land was acquired, filed appeals before the High Court under Section 54 of the Act. So far as the appellants (landowners) were concerned, they filed cross-objections and prayed for enhancement in the compensation at the rate of Rs.150/- per square feet as against Rs.80/- to Rs.100/- per square feet awarded by the Reference Court.

12. The Division Bench of the High Court, by common impugned judgment/order partly allowed the appeals filed by TTD (respondent herein) and reduced the compensation payable to the appellants to Rs.30/- per square feet. In other words, in the

opinion of the High Court, the Reference Court was not right in determining the compensation payable between Rs.80/- to Rs.100/- per square feet instead it should have been paid at the rate of Rs.30/- per square feet uniformly to all the landowners (appellants). In this way, the appellants were held entitled to get the compensation at the uniform rate of Rs.30/- per square feet for their respective lands. As a consequence, the cross objections filed by the appellants herein (landowners) for enhancement of the compensation at Rs.150/- per square feet were dismissed. Against this judgment/order, the claimants/landowners have filed these appeals by way of special leave petitions.

13. Heard learned Counsel for the parties.

14. Mr. B. Adinarayana Rao, learned senior counsel appearing for the appellants in C.A. No. 5769 of 2006 contended that the High Court erred in partly allowing the appeals filed by the TTD.

According to the learned counsel, no case was made out by the TTD either on facts or in law for reduction of rate of compensation, which was rightly fixed by the Reference Court between Rs.80/- to Rs.100/- per square feet. He submitted that the Reference Court had rightly appreciated the evidence on record for enhancing the rate of compensation and on such appreciation itself, it could have awarded still higher than what was awarded but in no case it could have been less than the same as was done by the High Court, which has no basis. Learned counsel further pointed out that apart from the evidence adduced by the claimants-appellants herein before the Reference Court to prove the fair market value of the land, even the counsel appearing for TTD did not raise any objection for payment of compensation at the rate of Rs.90/- per square feet. Learned counsel also pointed out that by virtue of ban contained in

Section 123 of the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Act 1987 (for short 'the AP Act') for sale of the land situated in Tirumala Hills, it was not possible to any person to sell his land privately and it was for this reason, the appellants were not able to file copies of any sale deeds of the lands which did not take place between the two private parties except one or two. This aspect, according to the learned counsel, was rightly taken note of by the Reference Court while determining the value of the land but was not so taken note of in its proper perspective by the High Court resulting in committing an error while determining the value of the land. Learned counsel, therefore, contended that this Court should restore the award of Reference Court.

15. Learned counsel for the appellants in other two appeals adopted the arguments of Mr. Adinarayana Rao.

16. In contra, Mr. G. Prabhakar, learned counsel for the respondent (TTD) supported the impugned judgment and contended that no case is made out on facts or/and in law to call for any interference in the impugned judgment of the High Court. This submission was elaborated by the learned counsel by referring to the reasoning contained in the impugned judgment.

17. Having heard learned counsel for the parties and on perusal of the record of the case, we find force in the submission of learned senior counsel appearing for the appellants (land-owners) and hence are inclined to allow these appeals in part by restoring the award of the Reference Court with part modification as detailed infra by enhancing the compensation.

18. In our considered opinion, the reasoning and the conclusion arrived at by the Reference Court (civil court) while fixing the rate of compensation

between Rs.80 to Rs.100/- per square feet for the land in question was just and proper and hence the same should not have been disturbed by the High Court in appeals filed by the TTD for reducing the rate to Rs.30/- per square feet. In other words, in our considered view, if the reference Court was right in fixing the rate of compensation between Rs.80 to Rs.100/- per square feet for the entire acquired land in question, the High Court was not right in interfering with this finding of the Reference Court and reducing it to Rs.30/- per square feet. This we say so for the following reasons.

19. In order to prove the market rate of the land in question, the appellants-landowners had adduced evidence by filing certified copies of sale deeds and several awards passed by the Reference Court (Civil Court) wherein the Reference Court had determined the fair market value of the adjacent similar lands which were acquired prior to acquisition of the

lands in question. Exs.B-7, 8, 9, 10 and 11 (marked in Award No.46/90-91) are the copies of the orders/awards passed by the Reference Court in relation to the lands which were acquired in the years 1957, 1962 and 1976. The rate fixed by the Reference Court for the lands acquired in the year 1957 was at Rs.30/- per square feet. Likewise the rate fixed for the land acquired in the year 1962 was at Rs.40/- per square feet and for the lands acquired in the year 1976, the rate was at Rs.73/- per square feet. Exs. B-12, 13 and 15 are the copies of the orders/awards passed by the Reference Court in relation to the lands acquired in 1986 and 1987. The rate fixed for the land acquired in the year 1986 was at Rs.100/- per square feet and for the land acquired in the year 1987, the rate was Rs.106/- per square feet.

20. It is not in dispute that so far as the orders/awards (Exs. B-7 to B-11) were concerned, it

pertained to lands adjacent to the lands in question and had attained finality whereas the orders/awards (Exs.B-12,13 and 15) were *sub judiced* in pending appeal.

21. The Reference Court, therefore, took into consideration the rates of lands prevailing in the years 1957, 1962 and 1976 (without taking into account the rates of lands prevalent in the years 1986 and 1987 though they related to lands sold in near proximity with acquisition of the lands in question on the ground that the appeals were pending in relation to these lands against the orders/awards) and then taking into account the appreciation in the value of land in the last 25 years at Rs.3/- per square feet per annum fixed the fair market value of land in question between Rs.80 to Rs.100/- per square feet.

22. It is pertinent to mention that the learned counsel appearing for the TTD had given his no

objection to the rate fixed by the Reference Court which was duly recorded by the Court in Para 8 of the award dated 14.3.2001 (Award No.46/90-91). It reads as under:

> **"8. The advocate for the claimants argued that the market value of the site at Tirumala during 1962 was Rs.40/- per sq. foot as per Ex.B-3 and since the site in question is acquired in 1987, i.e., 25 years after the land acquisition covered by Ex.B-3, the market value of the site acquired in this case can be fixed more than Rs.100/- per sq. foot by considering the appreciation in the value of the site since 25 years at Rs.3/- per sq. foot per annum. The advocate for R.2/Beneficiary argued that in similar cases, this court fixed the market value of the site at Rs.90/- per sq. foot and he has no objection to fix the same market value at Rs.90/- per sq. foot for the site acquired in this case……."**
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> **(Emphasis supplied)**

23. The High Court, however, while reversing the aforesaid view of the Reference Court held that the Reference Court erred in relying upon the orders/awards passed in other cases for determining the value of the lands in question. The High Court then went on to the extent of finding fault in the orders/awards. The High Court also did

not agree with the Reference Court to hold that the prices of the land escalate in passage of time every year though it held that the Tirupati (Tirumala) has acquired potential due to pilgrimage. It is apposite to state what the High Court held on this issue:

> **"As observed above, the very basis in determining the market value of the land by the reference courts is erroneous in law and is contrary to the settled principles. Reference Courts have proceeded in the matter assuming abnormal rise in prices and erroneously placed reliance upon the judgments in P.P. No.34 of 1964 or O.P. No.23 of 1969 and batch. Reliance was placed erroneously on the alleged statement of LAO made in O.P. No. 30 of 1982. There was no evidence adduced by the claimants evidencing any escalation in price from 1957 till respective dates of acquisition. Evidence on record, as discussed above, suggest that prices have remained static at Tirumala irrespective of the place gaining considerable importance or the place being visited by innumerable pilgrims. Pilgrims visit the Holy Place only for the purpose to have darshan of the deity and not with a view to settle there. No evidence is left in to show that there was heavy demand for land in the area. Therefore, there was no justification on the part of the Reference Courts in fixing the market value on the basis of the market value fixed in the earlier judgments. May be that in one case, i.e., in O.P. No.23 of 1969 and batch appeals were filed and there was no interference by this Court in the assessment of the market value, but, that alone could not have been made the basis for arriving at the market value in these cases. There was**

absolutely no evidence to have proceeded to fix the market value more than what was offered by the LAO. Considering the facts and circumstances of the case and fixing the market value at Rs.23/- per sq. ft. we are inclined to take in all cases the market value of the land at Rs.30/- per sq. ft. which would be just, fair and equitable and to that extent the respective awards of the reference courts deserve to be modified."

24. We do not agree with the aforesaid finding of the High Court for the following reasons detailed infra.

25. As mentioned above, the reasoning of the Reference Court is in conformity with the principle of law laid down by this Court wherein this Court has in no uncertain held that recourse can be taken in appropriate cases to the mode of determining the market value of the acquired land by providing appropriate escalation over the proved market value of nearby lands in previous years where there is no evidence of any contemporaneous sale transactions or acquisition of comparable lands in neighborhood. The percentage of escalation may vary from case to

case so also the extent of years to determine the rates (see **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel & Anr., (2008) 14 SCC 745 & Valliyammal & Anr. Vs. Special Tahsildar (Land Acquisition) & Anr., (2011) 8 SCC 91)**.

26. We find that the Reference Court, therefore, rightly relied on the rates determined by it in relation to adjacent lands and applied the principle of giving escalation to the rates determined yearly and worked out the rates between 80/- to 100/- per square feet. It was not in dispute that the public purpose for acquisition of both the lands was the same and secondly, all these lands were in the close proximity with each other being situated in Tirumala.

27. The High Court having rightly held that the Tirumala Tirupati Devasthanam has acquired immense potential due to its pilgrimage status in

the country was not right in holding that its potentiality cannot be taken into consideration for holding that the prices of the land are also escalated due to such reason. As held by this Court in **O.N.G.C. and Valliyammal's cases** (supra), the escalation in price of the land which depends upon the nature of land and its surrounding, its benefit should have given for determining the price of the land in question by taking into account the rate of land fixed by the Reference Court in relation to land acquired in past years as was rightly done by the Reference Court. It was all the more because no sale deeds were available for filing due to peculiar reason that there was a statutory ban imposed by Section 123 of the A.P. Act for sale of private land in the area in question. It was for this reason, no private sale had taken place of any parcel of land at the relevant time barring one or two. Similarly, the High Court further erred in finding fault in the

orders/awards which were rightly relied on by the Reference Court. The High Court failed to see that they were not hearing the appeals arising out of those orders/awards to examine their legality or/and correctness which had become final and were also given effect to. The High Court was required to see as to whether the land involved in those cases was similar to the one which was the subject matter of present proceedings and secondly, what was the rate fixed therein by the Reference Court for the lands.

28. The appellants (landowners) were, therefore, justified in filing the copies of orders/awards passed in relation to the adjacent lands for proving the market rate of the land in question because as mentioned above, these lands were situated in the same area nearer to the lands in question and were also acquired for the same public purpose.

29. In the light of foregoing discussion, we are of

the considered opinion that the rate fixed by the Reference Court between Rs.80/- to Rs.100/- per square feet for the lands in question was just and proper and the High Court erred in reducing the same to Rs.30/- per square feet.

30. We are, however, of the view that the Reference Court having held that the appellants were entitled to compensation at the rate varying between Rs.80/- to Rs.100/- per square feet, should have fixed one uniform rate for the entire land rather than to fix different rates such as Rs.80/-, Rs.86/-, Rs.90/- and Rs.100/- per square feet for different landowners. In our view, since the land of all the appellants was more or less similar in nature and no evidence was adduced by the appellants to prove any significant improvement/addition or/dissimilarity in the land or its quality, the Reference Court should have fixed one uniform rate.

31. Having regard to the totality of factual

undisputed scenario which has emerged from the evidence and taking into account the extent of the land held by each landowner, we are of the considered opinion that the appellants are entitled to get the compensation for their respective lands at the rate of **"Rs.90 per square feet".** So far as the compensation awarded by the Reference Court for super-structure built on each appellant's land is concerned, it does not call for any interference. In our view, it was rightly upheld by the High Court and we also uphold the same, calling no interference.

32. Learned senior counsel for the appellants (landowners) then submitted that the appellants are all small shopkeepers who were carrying on their small business for their livelihood but now due to the acquisition, they are deprived of their land and therefore unable to do their business. Learned counsel, therefore, submitted that the TTD may be

directed to provide any alternate space/shop/land to the appellants herein in the nearby area on any terms and conditions which will enable them to start business for their livelihood. Learned counsel for the TTD has, however, opposed this prayer.

33. Having taken note of the submission of the learned counsel for the appellants, all that we wish to observe is that in case if any of the appellants apply for allotment of any land/shop/space to TTD for doing any business in the area under their ownership or/and control then the TTD would be at liberty and may consider their case for providing them a shop or land or space, as the case may be, pursuant to any of their scheme, if any in force, on suitable terms and conditions alike others as a fine gesture on the part of the TTD, for compliance.

34. We, however, make it clear that the observations made in para 33 are only in the nature of observations and not an order/writ issued

against the TTD.

35. In view of foregoing discussion, the appeals succeed and are allowed in part. The impugned judgment/order of the High Court is set aside and the awards passed by the Reference Court (civil court) are restored with the modification indicated above. The respondents are directed to calculate the payment of compensation payable to each appellant (landowner) as directed above and pay the compensation money to each of the appellant within three months from the date of the receipt of copy of this judgment.

.....J.
[VIKRAMAJIT SEN]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
April 23, 2015.