

SMT. GOWRAMMA ETC.

v.

LAO-CUM-MANDAL REVENUE OFFICER PARTI
RANGAREDDY DISTRICT

MARCH 22, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Land Acquisition Act, 1894 :

S.4, 6, 23(1A), 23(2), 28—Acquisition of Land—Possession of land taken on 5.6.1986—Award by Land Acquisition Officer made on 25.5.1990—Compensation determined on the basis of compensation given for lands acquired under an earlier notification, keeping in view the time lag between the two notifications—Held valid—For the land situated on the main road and abutting developed area higher compensation determined—Keeping in view the potential value of the land—Claimants entitled to benefit u/s. 23(1-A), 23(2) and 28.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7033-34 of 1996 Etc.

From the Judgment and Order dated 8.9.93 of the Andhra Pradesh High Court in A.S. Nos. 2030 and 2597 of 1992.

R. Venugopal Reddy, S. Vijay Kumar, Ms. Rani Chhabra, G. Seshagiri Rao and Mohan Rao for the Appellants.

G. Prabhakar for the Respondents.

The following Order of the Court was delivered :

Leave granted.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on August 29, 1989 acquiring an extent of 9 acres 25 guntas of land in Pargi Town, Ranga Reddy District in the State of Andhra Pradesh for public purpose, namely, to provide house sites to the weaker sections. Possession of the land was taken on June 5, 1986 pursuant to an earlier notification which had lapsed for failure to pass the

A award. The Land Acquisition Officer in his award dated May 25, 1990 determined the compensation @ Rs. 7,500 per acre in respect of some lands and Rs. 15,000 per acre in respect of other lands and, in addition, granted Rs. 5,000 for well. On reference under Section 18, the Subordinate Judge, Vikarabad in his award and decree dated February 12, 1992 determined the compensation at Rs. 36 per sq. yd. He determined the value of the well at Rs. 18,100. Both the State as well as the claimants filed appeals in the High Court. In three different sets of appeals, the different Division Benches followed the judgment of a learned single Judge of that Court in Ex. A-2 in which Rs. 11 per sq. yd. was determined as compensation after deductions and the same was proportionately increased to Rs. 22 per sq. yd. due to time lag. Accordingly appeals of the State were allowed and that of the claimants were dismissed in A.S. Nos. 2030/92 & A.S. No. 2597/92 dated 8.9.93 and another judgment in A.S. No. 2024/92, 2028/92, 1662 & 1663/93 & A.S. Nos. 2029/92 & 2598/92 dated 16.9.93. Thus these appeals by special leave.

D Shri R. Venugopal Reddy, the learned senior counsel appearing for the appellants contended that the reasoning adopted by the Division Benches of the High Court is not correct in law. According to the learned counsel, the lands covered in the judgments under Ex. A-3, Ex. A-4 and Ex. A-5, in addition to Ex. A-2 also offer comparable basis for determination of the compensation. The notifications therein were issued during period from 1976 to 1982. The different higher rates of compensation have been granted by the High Court in the appeals. The Division Bench, therefore, was not right in relying upon Ex. A-2 alone as a basis and reducing the compensation to Rs. 22 per sq. yd. He has placed before us the site plan marked in the case as Ex. A-1. From a perusal of the site plan, it is seen that the lands bearing survey No. 18 is adjacent to the lands bearing Survey Nos. 24/2 which are the subject matter of the acquisition under Ex. A-2. The notification under Ex. A-2 was dated 13.4.1979. A learned single judge of the High Court, after taking into consideration the situation of the lands and the development, reduced the compensation to 50% of the compensation towards developmental charges and determined the compensation at Rs. 11 per sq. yd. That order has become final. Therefore, the Division Bench has rightly placed reliance upon that judgment and in view of the time lag between the date of the notification under Ex. A-2 and the date of the notification in these cases has proportionately increased the compensation and fixed the market value at the rate of Rs.

22 per sq. yd. after due deductions. The lands under Ex. A-3 and Ex. A-4 are situated far away from the lands covered in Survey No. 18. Therefore, the High Court was right in not placing reliance on those judgments. Therefore, we find that there is no justification for further increase in respect of the lands covered in first set of appeals. But with regard to the lands in Survey No. 271/2, 272/2 and 276/2 we find that there is no justification in awarding the same compensation at Rs. 22 per square yard. It is seen that these lands are situated on the main road and in developed area. Though Mr. R. Venugopal Reddy, the learned senior counsel repeatedly placed reliance on the judgment of the courts in relation to Ex. A-3 and Ex. A-4, we do not find that they do offer any comparable basis to determine the compensation. But one important factor to be taken note of is that the Land Acquisition Officer himself made a distinction between the lands covered in Survey Nos. 18 & 20. While granting compensation @ Rs. 7,500, he had granted double the rate to these lands, namely, Rs. 15,000 per acre. In other words, he had taken the potential value of these lands into consideration. It is seen that though there was not much development except partial development in the neighbourhood, these lands having been situated on the main road and abutting the developed area, on the facts and circumstances, we think that there should be a uniform rate of Rs. 30 per sq. yd.

Accordingly, the appeals and S.L.P. (C) Nos. 14244-14245 & 14686-14687/94 are dismissed and appeals and S.L.P. (C) Nos. 16244-16247/94 are allowed and the market value is determined at Rs. 30 sq. yd. in respect of all the lands. The claimants are entitled to the benefits under Sections 28, 23(2) and 23(1-A) of the Act of the enhanced solatium, interest and additional amount @ 9% p.a. for one year and @ 15% p.a. thereafter, from the date of taking possession till date of the award. No costs.

R.P.

Appeal Nos. 7033-34/96, 6952-53 are dismissed and Appeal Nos. 6948-51/96 allowed.