

THE HON'BLE SRI JUSTICE A.GOPAL REDDY
and
THE HON'BLE SRI JUSTICE B.CHANDRA KUMAR

-
A.S.Nos.3007 and 3008 of 1999, 387, 1378
and 3725 of 2000

COMMON JUDGMENT *(Per the Hon'ble Sri Justice A. Gopal Reddy)*

Since all these appeals by the Land Acquisition Officer and Revenue Divisional Officer, Kakinada, are directed against common order, dated 12.09.1996, passed by the Principal Subordinate Judge, Kakinada in O.P.Nos.317 of 1987 and batch, they are heard together and being disposed of by this common judgment.

Various extents of land, belonging to the claimants situated in Turangi Village were acquired for the purpose of providing house sites to the poor, by issuing a draft notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') dated 28.01.1987. The Land Acquisition Officer, after following the due procedure, passed Award No.43 of 1986, dated 29.03.1987, fixing the market value of the acquired land at Rs.49,000/- per acre.

Dissatisfied with the fixation of market value, the claimants sought for reference under Section 18 of the Act for due determination of the market value of the acquired land. On references being made to the Civil Court and on receipt of notices, the claimants appeared before the Civil Court and filed their respective claim statements claiming compensation @ Rs.80/- per square yard, and also objecting the double deduction i.e., deducting Rs.43,800/- per acre for towards levelling charges of the land, after deducting 1/3rd of the market value towards the provision of road and park etc.

To substantiate the market value, on behalf of the claimants, the claimant in O.P.No.317 of 1987 was examined as C.W.1 and got marked Exs.A.1 and A.2, the registration extracts of the sale deeds under which the lands were sold in 1986. No oral or documentary evidence was adduced on behalf of the Referring Officer.

The Court below discarded Exs.A.1 and A.2 on the ground that the parties connected with the said document have not been examined to prove the consideration, and they are based upon the oral testimony of C.W.1, and accordingly accepted the plea of the claimants that they are entitled to much more amount. The Court below held that once 1/3rd amount is deducted from the market value towards the provision of roads, park etc., further deducting Rs.43,800/-per acre towards the estimated cost for levelling the site to make it fit for construction of houses and conversion charges, is not proper, and accordingly fixed the market value of the acquired land at Rs.92,800/- per acre

It is evident from the award that the Land Acquisition Officer arrived at the market value of the acquired land at Rs.1,39,200/- per acre, calculating the same @ Rs.30/- per square yard, and deducted 1/3rd out of the said amount, which comes to Rs.46,400/- for providing roads, park, electricity etc and further deducted Rs.43,800/- per acre towards levelling charges, conversion charges etc. It is also evident that the District Collector recommended the State Government in Ref.No.L5.1195/84, dated 23.11.1984 to pay Rs.96,000/- per acre for the acquired land. Since the notification was published nearly after two years two months, there will be an increase in the market value. In view of the same, the claimants are entitled to Rs.92,800/- per acre. Since the Land Acquisition Officer arrived at the market value of the acquired land at Rs.30/- per square yard on 15.10.1984, and the same is increasing day by day, deducting Rs.43,800/- per acre after deducting 1/3rd amount does not arise.

In view of the above, we do not see any illegality in the impugned order warranting interference of this Court.

The appeals fail and the same are accordingly dismissed. There shall be no order as to costs.

A. GOPAL REDDY, J

B.CHANDRA KUMAR, J

Date: 02.09.2009

va