

**HON'BLE SRI JUSTICE N.V. RAMANA
AND
HON'BLE SRI JUSTICE K.S. APPA RAO**

A.S.No.1254 of 2001

Date: 30-06-2011

Between:

Land Acquisition Officer,

..... Appellant

and

B.E. Tozer

..... Respondent

**HON'BLE SRI JUSTICE N.V. RAMANA
AND
HON'BLE SRI JUSTICE K.S. APPA RAO**

A.S.No.1254 of 2001

ORDER: (Per NVR, J)

This Appeal is directed against the judgment dated 22-09-1999 passed in O.P.No.7 of 1987 on the file of the Senior Civil Judge, Kadiri.

2. The land of the claimant to an extent of Acs.2-71 cents in Sy.No.660/3A1 of Kadiri was acquired by the Government by issuing the notification under Section 4(1) of the Land Acquisition Act on 01-02-1979 and the possession was taken on 01-04-1980. The Land Acquisition Officer, after conducting an enquiry, passed the award on 15-09-1986 fixing the market value of the acquired land at Rs.1,00,000/- per acre. The claimant, being not satisfied with the market value fixed by the Land Acquisition Officer, sought for reference and accordingly, the matter was referred to the Court below under Section 18 of the Land Acquisition Act.

3. During the course of trial, on behalf of the claimants, PWs.1 to 5 were examined and Ex.B-1 was marked. On behalf of the Land Acquisition Officer, RW-1 was examined, however, no documents

were marked. The Reference Court, after considering the entire evidence on record, enhanced the market value fixed by the Land Acquisition Officer from Rs.1,00,000/- at Rs.1,40,000/- per acre. Being aggrieved by the same, the Land Acquisition Officer preferred the present Appeal.

4. The learned Government Pleader for Appeals contends that the market value fixed by the Reference Court is excessive and as the large extent of land is acquired for house sites, some deduction should be made for developmental activities, but the Reference Court failed to do so. Therefore, the order of the Reference Court cannot be sustained and it is liable to be set aside.

5. The learned counsel for the claimant-respondent contends that the Reference Court, while relying on the sale transaction relating to the land situated in the vicinity of the acquired land, rightly fixed the market value at Rs.1,40,000/- per acre and there are no grounds to interfere with the same.

6. It was the case of the claimant before the Reference Court that the market value fixed by the Land Acquisition Officer is very meagre considering the fact that the acquired land is located in shopping area in Anantapur District and therefore, he is entitled to Rs.924/- per square yard for shopping area and Rs.306/- per square yard for residential area.

7. The Reference Court, while taking into consideration the sale deed executed in the year 1973 in respect of the land in Sy.No.663/3B of the same village, enhanced the market value of the acquired land from Rs.1,00,000/- to Rs.1,40,000/- per acre and found fault with the Land Acquisition Officer in not considering the said sale deed at the time of fixing the market value. It is also observed that the market value of the land in Sy.No.659, which was acquired in the year 1981 for RTC bus stand, was fixed at Rs.80,000/- per acre, and the market value of the land in Sy.No.660/3B, which was sold in the year 1973, was Rs.1,40,000/- per acre. It is also observed that as per the

inspection report, the acquired land is nearer to the road and found that there is no reason to disbelieve the sale deed, which has taken place in the year 1973, i.e., six years prior to the present acquisition.

8. There is no material placed before this Court by the appellant to show that the market value fixed by the Reference Court is on higher side. As seen from the impugned order, the Reference Court has rightly taken into consideration the potentiality of the land which is adjacent to the road and commercial in nature, and placing reliance on the sale deed of the year 1973, which is for a consideration of Rs.1,40,000/- per acre, and is anterior to the acquisition, has fixed the same market value at Rs.1,40,000/- per acre. Therefore, we see no reason to interfere with the order passed by the Reference Court. There are no merits in the appeal and it is liable to be dismissed.

9. The Appeal is, accordingly, dismissed. The claimant-respondent herein is entitled to all the statutory benefits under the Land Acquisition Act. No order as to costs.

N.V. RAMANA, J

K.S. APPA RAO, J

Date: 30-06-2011
YCR