

**THE HON'BLE SRI JUSTICE K.C.BHANU  
AND  
THE HON'BLE MRS JUSTICE ANIS**

**LAND ACQUISITION APPEAL SUIT  
Nos.21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,46,47,48,  
49,50,51,52,58,59,60,61,62,63,64,65,66,95,96 and 100 OF 2010**

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**COMMON JUDGMENT:** (Per the Hon'ble Sri Justice K.C.Bhanu)

These appeals are filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') by the appellants/claimants challenging the common order and decree, dated 27.02.2009, in L.A.O.P.Nos.45 to 79 of 2007 on the file of the Senior Civil Judge, Atmakur.

2. The brief facts that are necessary for disposal of the present appeals are as follows:

A total extent of Ac.69.69 cents in Vanala Village, Pamulapadu Mandal, Kurnool District was acquired by the State for the public purpose of widening of S.R.B.C. (25<sup>th</sup> package). A draft notification was issued in the Gazette under Section 4(1) of the Act on 22.05.2007. After following the due procedure under the Act, an enquiry was conducted by the Land Acquisition Officer (for short, "L.A.O."). By an Award No.1 of 2007, dated 08.06.2007, the L.A.O. fixed market value at the rate of Rs.84,000/- per acre for category No.1 lands and Rs.1,10,000/- per acre for category No.2 lands. Not satisfied with the compensation, the claimants filed an application before the Collector to refer the matter to the civil Court under Section 18 of the Act for proper determination of the compensation and the same was taken on file by the learned Senior Civil Judge, Atmakur.

3. Before the Reference Court, on behalf of the claimants, P.Ws.1 to 4 were examined and Exs.A-1 and A-2 were got marked, and on

behalf of Referring Officer, R.W.1 was examined and Ex.B-1 was got marked.

4. Considering the evidence on record, the learned Senior Civil Judge, Atmakur enhanced the compensation of category No.1 lands from Rs.84,000/- to Rs.1,10,000/- per acre and category No.2 lands from Rs.1,10,000/- to Rs.1,40,000/- per acre by virtue of the impugned judgment. For enhancing the said amount, the common order, dated 24.10.2008, in O.P.No.8 of 2007 was taken into consideration. Not satisfied with the same, the claimants preferred the present appeals.

5. Now the point for consideration is:

“Whether the impugned judgment is correct, legal and proper, and whether there are any grounds to enhance the compensation to the claimants or not?”

6. Learned counsel for the appellants/claimants contended that the trial Court ought to have taken into consideration Ex.A-1 – sale deed for the purpose of determination of appropriate compensation; that the trial Court has, without giving any valid reasons, ignored the sale consideration under Ex.A-1; that Ex.A-1 is not challenged before the trial Court much less the consideration passed under it; that it is not case of the respondent that Ex.A-1 was brought into existence for the purpose of claiming more compensation and therefore, he prays to allow the appeals by duly awarding the compensation basing on the sale consideration covered under Ex.A-1.

7. On the other hand, learned Government Pleader for Appeals contended that there is absolutely no evidence to show that the acquired lands are similar in nature with that of the lands covered under Ex.A-1 with regard to the fertility; that Ex.A-1 sale deed was brought into existence for exaggerated amount to claim more compensation; that the vendor or vendee of Ex.A-1 was not examined to show about the actual sale consideration covered under Ex.A-1; that

in the absence of any evidence, the trial Court rightly has not taken into consideration Ex.A-1 as the basis for estimation of the compensation and therefore, the order under challenge needs no interference by this Court and hence, he prays to dismiss the appeals.

8. The factual matrix is not in dispute. The extent of the lands, the date of notification and the public purpose for which the lands were acquired are not in dispute. The only dispute is with regard to the estimation of the compensation. The trial Court, based on the common order, dated 24.10.2008, in O.P.No.8 of 2007, enhanced the compensation from Rs.84,000/- to Rs.1,10,000/- per acre for category No.1 lands and Rs.1,10,000/- to Rs.1,40,000/- per acre for category No.2 lands. No doubt, the vendor or vendee of Ex.A-1 - sale deed was not examined, but at the same time, as seen from Ex.A-1, it is clear that the vendee purchased Ac.1.05 cents of land for a valid consideration of Rs.1,90,476/- per acre on 06.12.2006. It is not in dispute before this Court that the lands covered in O.P.No.8 of 2007 and the present lands under acquisition are situated in the same village. P.W.3 - scribe of the document was examined to speak about the sale consideration passed under Ex.A-1 sale deed. The trial Court has not placed any reliance on Ex.A-1 for the reason that the vendor and vendee are the best persons to speak about the sale consideration passed under Ex.A-1. We are unable to accept the said reasoning.

9. Section 51-A of the Act reads as under:

“Acceptance of certified copy as evidence:- In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 (16 of 1908), including a copy given under Section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.”

From a perusal of the above provision, it is clear that the original sale deed or certified copy of the sale deed can be accepted as evidence. On this aspect, learned counsel for the appellants placed reliance on a decision reported in **Land Acquisition Officer, Sub-Collector,**

**Vijayawada v. Hindustan Commercial and Transport Co., (P) Ltd.,**

**Vijayawada** <sup>[1]</sup> wherein it is held at para No.5 as under:

“..... If the transactions are prior to the notification, the highest value depicted in the sale deed shall be taken into consideration for awarding compensation. If it is post notification sale, to find out the trend of the increase or standstill, we have to take into account the average, as in the case of small transactions, at certain times, the willing purchaser may pay high rate.....”

So, a perusal of the above judgment makes it clear that unless the transaction itself is *mala fide* or sham, the same cannot be taken into consideration. In the cross examination, P.W.1 stated that the vendor under Ex.A-1 sold his land to meet his family necessities and the said land is situated by the side of the acquired land. Similarly, R.W.1 - Special Deputy Collector, Land Acquisition, admitted in the cross examination that the lands sold under Ex.A-1 are situated in the same village. He stated in the chief affidavit that he is giving evidence basing on the material on record. He only stated that the documents relied upon by the claimants dated 06.12.2006 and 18.10.2004 are not relevant documents and that no vendor or vendee or attesor of the sale deed dated 06.12.2006 was examined. Therefore, R.W.1 has not stated that Ex.A-1 is a sham or collusive document brought into existence so as to claim more compensation. Furthermore, the vendor and vendee under Ex.A-1 are strangers to the Award. Further, the transaction had taken place about six months prior to the draft notification issued under Section 4(1) of the Act. Therefore, practically, when Ex.A-1 has not been challenged by the L.A.O., the sale consideration covered under Ex.A-1 can safely be taken for the purpose of ascertaining the compensation provided the lands covered under Ex.A-1 and the lands acquired are adjacent to each other. It is not in dispute before this Court that the lands covered under Ex.A-1 and the acquired lands are situated in Vanala Village. It is specifically stated by P.W.1 that the lands under Ex.A-1 are adjacent to the acquired lands. That has not been contraverted. No suggestion was given to P.W.1 that the lands covered under Ex.A-1 are far away from

the acquired lands. The price fetched by the comparable sale should form the 'price basis' for determination of the market value of the land acquired. When a sale deed is produced, Court has to examine the sale and as to what is the price fetched by its sale. Therefore, the Reference Court ought to have taken the sale consideration under Ex.A-1 as a basis for estimation of the compensation since it is a genuine document and not shown to be a sham or nominal one. Since the land covered under Ex.A-1 is a dry land, the same amount can be granted to both the categories of lands i.e., wet lands and dry lands. Hence, we enhance the compensation from Rs.1,10,000/- per acre to Rs.1,90,000/- for category No.1 lands and also from Rs.1,40,000/- to Rs.1,90,000/- per acre for category No.2 lands and making it clear that the claimants are entitled to all the statutory benefits as granted by the trial Court.

10. Accordingly, the appeals are partly allowed with regard to the enhancement of compensation while confirming the common order and decree, dated 27.02.2009, in L.A.O.P.Nos.45 to 79 of 2007 on the file of the Senior Civil Judge, Atmakur with regard to the statutory benefits. There shall be no order as to costs.

11. Miscellaneous petitions pending, if any, in these appeals shall stand closed.

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**JUSTICE K.C.BHANU**

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**JUSTICE ANIS**

**31.10.2013**  
AMD

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**AMD**

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[\[1\]](#) 1992 (2) ALT 423 (D.B.)