

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO



PRESENT

**THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO
AND**

THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

LAND ACQUISITION FIRST APPEAL NO: 1918 OF 2005

Between:

The Special Tahsildar (L.A.), Nellore

...Appellant/Respondent

AND

Yadlapalli Prameela, W/o. Yedlapalli Sudhakar, aged about 40 years, Housewife and residing at 5/116, Pappula Street, Nellore-2.

...Respondent/Claimant

Appeal Under Section 54 of Land Acquisition Act of 1894, against the Judgment and Decree passed in O.P No. 36 of 1997 on the file of the Principal Senior Civil Judge, Nellore, dated 30-4-2005.

I.A. NO: 1 OF 2006 (XOBJ. NO: 1953 OF 2006)

Between:

Yadlapalli Prameela, W/o. Yedlapalli Sudhakar, aged about 40 years, R/o 5/116, Pappula Street, Nellore-2, Nellore District

...Cross-Objector

AND

The Special Tahsildar (L.A.), Nellore

...Respondent

Appeal Under Order 41 Rule 22 of CPC R/w Section 54 of Land Acquisition Act of 1894, aggrieved by the decree and order in L.A.O.P No. 36 of 1997 on the file of the Principal Senior Civil Judge, Nellore, dated 30.04.2005 to the extent it went against the cross objector.

This Appeal and cross objection coming on for hearing, upon perusing the Memorandum of appeal, the orders of the Lower Court and the material papers in the case, and upon hearing the arguments of the GP for Appeals for the Appellant in Appeal and Respondent in Cross Objection and Sri P. Sridhar Reddy, Advocate for the Respondent in Appeal and Cross Objector in Cross Objection

This Court Doth Order and Decree as follows:

1. That the appeal be and is hereby dismissed.
2. That the Order passed by the Principal Senior Civil Judge be and is hereby confirmed for the reasons stated in the judgment in appeal in L.A.A.S No.1969/2005 and in terms thereof.
3. That the respondents/claimant be and is hereby entitled to all statutory benefits including interest on additional amount and solatium following the Judgment of the Supreme Court in **Sunder v. Union of India in Civil Appeal No.6271 of 1998, dated 19.09.2001.**
4. That the cross objections filed by the claimant are also hereby dismissed
5. That there be no order as to costs.

**Sd/- P. VENKATA RAMANA
JOINT REGISTRAR**

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for *chsn*
SECTION OFFICER

To,

1. The Principal Senior Civil Judge, Nellore, SPSR Nellore District
2. Three CD Copies.

pvd

Bhargava

HIGH COURT

DATED:29/06/2022

DECREE

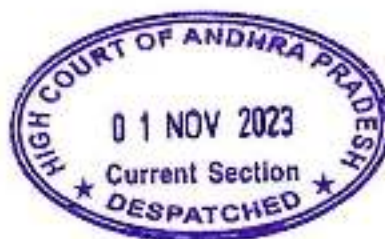
LAAS.No.1918 of 2005

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27/10/2023

DISMISSING THE LAAS



IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO



PRESENT
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LAND ACQUISITION FIRST APPEAL NO: 1918 OF 2005

Appeal Under order 41 Rule 22 of CPC R/w Section 54 of Land Acquisition Act of 1894, against the Judgment and Decree passed in O.P No. 36 of 1997 on the file of the Principal Senior Civil Judge, Nellore, dated 30-4-2005.

Between:

The Special Tahsildar (L.A.), Nellore

...Appellant/Respondent

AND

Yadlapalli Prameela, W/o. Yedlapalli Sudhakar, aged about 40 years, Housewife and residing at 5/116, Pappula Street, Nellore-2.

...Respondent/Claimant

Counsel for the Appellant : GP FOR APPEALS
Counsel for the Respondent : SRI P SRIDHAR REDDY

I.A. NO: 1 OF 2006 (XOBJ. NO: 1953 OF 2006)

Between:

Yadlapalli Prameela, W/o. Yedlapalli Sudhakar, aged about 40 years, R/o 5/116, Pappula Street, Nellore-2, Nellore District

...Cross-Objector

AND

The Special Tahsildar (L.A.), Nellore

...Respondent

Appeal Under Order 41 Rule 22 of CPC R/w Section 54 of Land Acquisition Act of 1894, aggrieved by the decree and order in L.A.O.P No. 36 of 1997 on the file of the Principal Senior Civil Judge, Nellore, dated 30.04.2005 to the extent it went against the cross objector.

Counsel for the Appellant : GP FOR APPEALS
Counsel for the Respondent : SRI P SRIDHAR REDDY

The Court made the following:

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

AND

HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

L.A.A.S.No.1918 of 2005

JUDGMENT : *(Per Hon'ble Sri Justice U. Durga Prasad Rao)*

The challenge in this appeal filed by the Special Tahsildar (LA) U/s 54 of Land Acquisition Act, 1894 (for short "LA Act") is to the order dated 30.04.2005 in L.A.O.P.No.36 of 1997 passed by learned Principal Senior Civil Judge, Nellore in a reference Under Section 18 of the LA Act.

2. The brief facts of the case are thus:

(a) For the purpose of formation of National Highway Bypass Road, on the request of Executive Engineer, (R&B), National Highway Investigation Division, Nellore, lands were acquired in Nellore Bit-II Village of Nellore Mandal. After following due process, draft declaration under Section-6 of the LA Act was approved by the Government vide Memo dated 28.04.1992 and published in the Special Supplement to A.P. Gazette Part-I on 24.08.1992 apart from publishing the same in two leading Telugu Daily newspapers. Pursuant thereof enquiry was conducted and award bearing No.9/1993-94 dated 28.02.1994 was passed by the Special Tahsildar, Nellore.

(b) The present case is concerned, Ac.0.09½ cents of land situated in Sy.No.389/4A of Nawabpet, Nellore-II belonging to the claimant was acquired for the aforesaid purpose of laying bypass road. The Land Acquisition Officer (for short "LAO") after considering the material, fixed the value of the land @ Rs.85,000/- per acre and fixed the compensation accordingly.

(c) Aggrieved by the above order, the claimant sought reference under Section 18 of the LA Act which was referred to the Principal Senior Civil Judge, Nellore and numbered as L.A.O.P.No.36 of 1997. During enquiry the claimant examined herself as PW-1 and examined another witness as PW-2 and produced documents in support of the claim which were marked as Ex.A1 to Ex.A3. The Special Tahsildar (LA) was examined as RW-1.

(d) The claim of the claimant before the reference Court is that the acquired land is a valuable land which is surrounded by business area wherein many rice mills, oil mills and dall-mills are located; she purchased an extent of 74 Ankanams and 64 Square Feet of vacant site in Sy.No.389/4A, under a registered sale deed Ex.A-1 on 16.03.1985 and after the demise of her husband she succeeded the subject property; the said plot is situated abutting to Nellore-Kodur road which runs from East to West direction; she spent Rs.50,000/- to rise the level of the land and constructed a wall around the plot and made it fit for raising pacca building and she installed gate to the plot.

Rs.2,000/- per Ankanam. Her main grievance is that while under Ex.A2 sale deed the neighbouring land was sold under sale deed dated 23.08.1988 @ Rs.21,000/- for 10 Ankanams i.e., @ Rs.2,100/- per Ankanam, LAO valued the land in terms of acreage instead of Ankanams / Square Yards and fixed the compensation amount Rs.85,000/- per acre which is abysmally low.

(e) The LAO (RW-1) in his evidence contended that the market value was fixed by taking the relevant facts into consideration which by all means is just and reasonable one; there were no houses on the acquired land; it does not have any potentiality as house site; it was lying waste without any irrigation facility and the only potentiality of the land is that same is carved out by the claimant into housing plots with a view to get house site value in future. He thus defended the compensation fixed by the LAO.

(f) While so, the reference Court, observing that the Ex.A2 sale deed dated 23.08.1988 was in respect of neighbouring land to the subject land as per which, the land was purchased @ Rs.2,100/- per ankanam, and the said sale deed was neither disputed nor taken into consideration by the LAO for computing compensation, held that Ex.A2 can be taken as basis for computing compensation. The reference Court enhanced the value per Ankanam from Rs.2,100 to Rs.2,500/- and accordingly fixed the compensation.

3. The claimant also filed cross-objections claiming that the reference Court ought to have fixed compensation @ Rs.5,000/- per Ankanam instead of Rs.2,500/- per Ankanam.

4. Heard argument of learned Government Pleader for Land Acquisition and Sri Sridhar Reddy learned counsel for respondent/claimant/cross objector.

5. Learned counsel for respondent placing judgment dated 06.02.2020 of division bench of this Court in L.A.A.S No.1969/2005 would submit that in respect of the same award, the division bench has confirmed the value of land at Rs.2,500/- per Ankanam as fixed by the reference Court and therefore, in terms thereof, order may be passed and compensation fixed by the reference Court may be confirmed.

6. We perused the order dated 06.02.2020 in L.A.A.S No.1969/2005 passed by the Coordinate Bench of this High Court. The L.A.A.S No.1969/2005 was preferred by the Special Tahsildar, (LA) aggrieved by the order dated 30.04.2005 passed in L.A.O.P.No.32/1997 by the learned Principal Senior Civil Judge, Nellore relating to award No.9/1993-94 dated 28.02.1994. The LAO challenged the order in L.A.O.P.No.32/1997 fixing the compensation

judgment of Apex Court in **Huchanagouda v. Assistant Commissioner and Land Acquisition Officer¹**, by following the view taken in its earlier judgment reported in the case of **General Manager, Oil & Natural Gas Corporation Ltd., v. Rameshbhai Jivanbhai Patel²**, held as follows:

"From a perusal of the above referred two judgments, it is to be noted that depending on the facts of each case and the location / development on the potentiality of the area, the rise in market value in urban/semi-urban areas, is about 10% to 15% per annum and the corresponding increase in rural areas would be about 5% to 7%.

The subject land was acquired under the Notification dated 27.04.1992. Under Ex.A2, dated 22.08.1988, the adjacent land was purchased at the rate of Rs.2,100/- per Ankanam. Therefore, applying the above judgment of the Apex Court and 10% escalation, the market value enhanced by the Reference Court at the rate of Rs.2,500/- per Ankanam, is just and reasonable.

Hence, there are no grounds to interfere with the order passed by the Reference Court, and accordingly, the appeal is dismissed. However, the respondent - claimant is entitled to all statutory benefits including interest on additional amount and solatium following the judgment of the Supreme Court in **Sunder v. Union of India in Civil Appeal No.6271 of 1998, dated 19.09.2001**. No order as to costs."

7. Needless to emphasize that the above judgment of Coordinate Bench applies with all its fours to the case on hand since the present case also arises out of the same award and also in respect of land which is in the same vicinity.

8. Therefore, for the reasons stated in the judgment in appeal in L.A.A.S No.1969/2005 and in terms thereof, this appeal is dismissed by confirming the order passed by the reference Court. It is further held that the respondent/claimant is entitled to all statutory benefits including interest on additional amount and solatium following the judgment of the Supreme Court in **Sunder v. Union of India in Civil Appeal No.6271 of 1998, dated 19.09.2001.** The cross objections filed by the claimant are also dismissed. No costs.

As a sequel, interlocutory applications pending, if any, shall stand closed.

Sd/- P. VENKATA RAMANA
JOINT REGISTRAR

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[Signature]
SECTION OFFICER

To,

1. The Principal Senior Civil Judge, Nellore, SPSR Nellore District (with records if any)
2. One CC to Sri P Sridhar Reddy Advocate [OPUC]
3. Two CCs to GP for Appeals High Court of Andhra Pradesh Amaravathi [OUT]
4. The Section Officer, VR Section, High Court of Andhra Pradesh at Amaravathi
5. Three CD Copies

pvd

Bhadrachalam

HIGH COURT

DATED:29/06/2022

ORDER

LAAS.No.1918 of 2005

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DISMISSING THE LA AS

