

(O
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2109 OF 2007

Mandal Revenue Officer ...Appellant
Versus
Kamamma and others ...Respondents

ORDER

This appeal is directed against the judgment of the Division Bench of Andhra Pradesh High Court in First Appeal No.2312 of 2000 whereby market value of the land acquired for providing house sites to weaker sections of the society in Dharoor Village of Mahabubnagar District was enhanced from Rs.7,000/- per acre in respect of the land falling in survey No. 640/2 and Rs.8,000/- per acre in respect of the land falling in survey No.641/2 to Rs.30,000/- per acre.

By notification dated 27.1.1987 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), the Government of Andhra Pradesh acquired 10 acres 98 cents land in survey No. 640/2 and 2 acres 58 cents in survey No. 641/2 of Dharoor Village, Mahabubnagar District. The Land Acquisition Officer vide his award dated 19.3.1988 determined market value of the acquired land at Rs.3,000/- per acre in respect of the land of survey No. 640/2 and Rs.4,000/- per acre in respect of the land of survey No. 641/2.

In the reference made at the instance of the land owners - respondents, learned Senior Civil Judge, Gadwal (Reference Court) enhanced market value of two parcels of land to Rs.7,000/- per acre and Rs.8,000/- per acre respectively. While doing so, the Reference Court discarded the sale instances Exs.A4 to A8 relied upon by the respondents only on the ground that the land which was subject matter of sale transactions was far away from the acquired land.

The respondents challenged the order of the Reference Court by filing an appeal under Section 54 of the Act.

The Division Bench of the High Court, after comprehensive analysis

of various sale transactions and other evidence produced before the Reference Court fixed the market value of the acquired land at the rate of Rs.30,000/- per acre.

Shri I. Venkatanaryana, learned senior counsel appearing for the appellant reiterated the instance adopted by his client before the High Court that the five sale transactions were not relevant for determining the market value of the acquired land because the land which was subject matter of those transactions was one to four furlongs away from the acquired land.

In our view, there is no merit in the argument of the learned counsel. It is true that the parcels of land which were sold through Exs.A4 to A8 were at a distance of one to two furlongs from the acquired land but there is no denial that all parcels of land were situated in the same village and were being used for agricultural purposes. The Division Bench of the High Court referred to the evidence produced by the parties including the sale transactions, Exs.A4 to A8 and observed:

"That under the original Ex.A4, registered sale deed, dated 24.04.1985, an extent of Ac.1.00 of land was sold to P.W.7 by the father of P.W. 4 for a valuable consideration of Rs.25,000/-. Both of them have stated that the land sold under the original Ex.A.4 is just about one or two furlongs away from the acquired lands. Ex. A.5 is the certified copy of the registered sale deed, dated 17.10.1985, under the original of which an extent of 1333.33 square yards of land was sold by P.W. 3 to P.W.5, for a valuable consideration of Rs.11,000/-, at the rate of Rs.8-25 ps. per square yard, which works out to Rs.39,935/- per acre. P.Ws. 3 and 5 have also stated in their evidence that the acquired lands and the lands under the original of Ex.A.5 are one furlong away from each other. The land sold under Ex.A.5 is in Survey No. 815 of the very same village i.e., Dharoor village. That under the original of Ex.A.6, registered sale deed, dated 02.12.1985, an extent of 222.2 square yards of land was sold by P.W.3 to P.W.6, for a consideration of Rs.2,000/-, which works out to Rs.38,720/- per acre. The said land is situated in survey No.815, which is just about two furlongs away from the acquired lands. Ex. A.7 is the sale deed, dated 30.01.1986, under the original of which an extent of 166 square yards of land was sold for a consideration of Rs.3,000/-, at the rate of Rs.18/- per square yard. The said land is situated in survey No.1. The market value of the land sold under the original of Ex.A.7 works out to Rs.87,120/-. Likewise, under the original of Ex. A.8, sale deed, dated 30.01.1986, an extent of 138.8 square yards of land was sold by the father of P.W.9 to P.W.8, for a consideration of Rs.3,000/- at the rate of Rs.21/- per square yard, which works out to Rs.1,01,000/- per acre. P.Ws. 8 and 9 stated in their evidence that the acquired lands and the lands sold under the original of Ex. A.8 are at a distance of one or two furlongs.

It is unfortunate that the learned Judge totally ignored the sale transactions under Exs. A.4 to A.8 on the ground that each of the witnesses, in one voice, stated that the distance between the acquired lands and the lands sold under the originals of Exs. A.4 to A.8 is just about one or two furlongs, which statement appeared to be artificial to the learned Judge. The reasoning given by the learned Judge, in our considered

opinion, is totally unacceptable. We are required to notice that the acquired lands and the lands sold under the originals of Exs. A.4 to A.8 are situated in the same village, Dharoor, which is a Mandal headquarter. Dharoor village is neither a town nor a metropolitan city. The distance between one field and other field can never be more than couple of furlongs. The acquired lands as well as the lands sold under the originals of Exs. A.4 to A.8 are agricultural lands, but they are sold for different purposes. The lands sold under the originals of Exs. A.5 to A.8 are obviously for the purposes of house sites, whereas the land sold under the original of Ex. A.4 is for agricultural purposes. Even P.Ws. 1 and 2 did not state in their evidence that there is a difference in the potentiality between the acquired lands and the lands sold under the originals of Exs. A.4 to A.8. The quality and potentiality of the acquired lands as well as the lands sold under the originals of Exs. A.4 to A.8 appear to be similar from the evidence of P.Ws. 1 to 8 and R.Ws. 1 and 2. The statement of P.W.1 that the acquired lands are abutting the Dharoor village, whereas the lands sold under the originals of Exs. A.4 to A.8 are little far away from the village, is not subjected to any cross-examination nor R.Ws. 1 and 2 have disputed the statement of any manner whatsoever.

In the above circumstances, we find no reason or justification to exclude Exs. A.4 to A.8 and ignore their evidentiary value."

A cursory look at the five sale transactions show that one acre land was sold by Ex.A4 dated 24.4.1985 for a sum of Rs.25,000/-. By Ex.A5 dated 17.10.1985 land measuring 1333 square yards was sold for a sum of Rs.11,000/- (i.e. Rs.3,99,935 acre). Ex.A6 was a sale transaction relating to 222.2 square yards of land and the sale price was Rs.38,720/- per acre. The lands which were subject matter of Ex. A7 and A8 dated 30.8.8.1986 were sold for Rs.87,120/- per acre and Rs.1,01,000/- per acre respectively.

We agree with the Division Bench of the High Court that even though parcels of the land sold through Exs.A4 to A8 were at a distance of few furlong from the acquired land, the same could not be discarded while determining market value of the acquired land. The Division Bench rightly held that if market value is computed with reference to Exs.A4 and A5, the land owners would be entitled to Rs.50,000/- per acre but having regard to the claim made by them, it would not be prudent to award compensation in excess of the demand i.e. Rs.30,000/- per acre.

In the result, the appeal is dismissed. The parties are left to bear their own costs.

If the appellants have already not paid the amount of compensation to the respondents along with statutory benefits admissible under the Act, then they shall do so within a period of three months from today.

(G.S. SINGHVI)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
September 16, 2010.
ITEM NO.110

COURT NO.10

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 2109 OF 2007

MANDAL REVENUE OFFICER

Appellant (s)

VERSUS

KAMALAMMA & ORS.

Respondent(s)

(With office report)

Date: 16/09/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s)

Mr. I. Venkatanaryana, Sr. Adv.
Ms. C.K. Sucharita, Adv.
Ms. Nirada Das, Adv.

For Respondent(s)

Mr. Praveen Kumar Pandey, Adv.
for Mr. D. Mahesh Babu, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

(Vishal Anand)
Senior P.A.

(Phoolan Wati Arora)
Court Master

(Signed Order is placed on the file)