

ITEM NO.201

COURT NO.11

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6846/2007

(From the judgement and order dated 27/07/2006 in AS No. 46/1999 & AS No. 860/1999 of The HIGH COURT OF A.P AT HYDERABAD)

LAND ACQUISITION OFFICER, HYDERABAD

Petitioner(s)

VERSUS

M. MOHAN REDDY & ORS.

Respondent(s)

(With office report) (For Final Disposal)

WITH

SLP(C) NO. 6843 of 2007

(With office report) (For Final Disposal)

SLP(C) NO. 15843-15844 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15845-15846 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15847 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15850-15851 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15855-15856 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15852-15853 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15858-15859 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15862-15863 of 2007

(With office report)(For Final Disposal)

SLP(C) NO. 15864-15865 of 2007

(With office report)(For Final Disposal)

Date: 17/01/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. V. Shekhar, Sr. Adv.
Mr. Venkateswara Rao Anumolu, Adv.

2

For Respondent(s) Mr. G. Ramakrishna Prasad, Adv.
Ms. Promila, Adv.
Mr. T.N. Rao, Adv.

UPON hearing counsel the Court made the following

O R D E R

The application for bringing on record legal representatives of deceased respondent No.2 in SLP(C) No.6843 of 2007 is allowed by condoning the delay of 143 days in its filing.

These petitions are directed against the judgment of the Division Bench of Andhra Pradesh High Court whereby the appeals filed by the respondents against the award of First Additional Senior Civil Judge, Rangareddy District (hereinafter referred to as

'the Reference Court') were partly allowed and market value of the acquired land was fixed between Rs.1,10,000/- per acre to Rs.1,30,000/- per acre and it was declared that they shall be entitled to other statutory benefits.

The proceedings for acquisition of 216 acres 2 guntas land comprised in survey Nos.661, 662, 663, 664, 720, 721, 724, 725, 726, 727 and 730 at Shamshabad for the establishment of a truck terminal-cum-whole sale market were initiated by the State Government vide notification dated 6.12.1986 issued under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"). After considering the objections filed by the land owners, declaration under section 6 of the Act was issued. By an award dated 12.1.1990, the Land Acquisition Officer fixed market value of the acquired land at Rs.32,000/- per acre as against Rs.3,00,000/- per acre claimed by the respondents.

The Collector made references at the instance of the land owners who claimed higher compensation. After considering the pleadings and evidence of the

parties, the Reference Court fixed market value of road side lands at Rs.72,000/- per acre and for the remaining lands at Rs.60,000/- per acre. The Reference Court also awarded compensation for the trees, etc. and directed the petitioner to accordingly pay the amount of compensation along with statutory benefits.

The petitioner and the respondents challenged the award of the Reference Court by filing appeals under Section 54 of the Act. The High Court took cognizance of the fact that the acquired land was situated in a highly developed area, relied upon the sale stance (Exhibit A3), by which Hyderabad Urban Development Authority sold the developed land at the rate of Rs.100/- per square meter, applied 1/3rd cut and fixed market value of the acquired land in the range of Rs.1,10,000/- to Rs.1,30,000/- per acre. This is evident from the following extracts of the impugned judgment:

"The contention of the learned counsel for the appellants - claimants is that the evidence clearly reveals that the acquired land was in highly developed area where there were existing houses, railway station is half a kilometer from the acquired land, there are well connected roads and frequent buses from Hyderabad, and there were other developmental activities, there was electricity and protected water supply. It is also contended that in view of these facilities, the HUDA itself has developed residential colony in the area, made 400 plots and sold house sites to beneficiaries at Rs.100/- per sq. meter. The learned counsel has referred to the evidence of Land Acquisition Officer, who admitted that the acquired lands are adjacent to National High Way No.7 and the HUDA has developed housing colonies nearer to the acquired land. It is further contended that the Shamshabad Mandal Headquarters is at a distance of 2 KMS. He further admitted that HUDA Satellite Town at

1986 itself, the HUDA sold 400 plots at Rs.100/- Sq. Met. at Shamshabad Housing Colony. Though from the evidence of this witness, it cannot be gathered as to at what distance, the HUDA developed colony was located from the main road, obviously, it must have been away from the main road compared to the acquired land, inasmuch as the evidence of this witness shows that the acquired lands are abutting National High Way No.7. This witness admitted that HUDA sold lands at Rs.100/- per Sq. Mt. in the year 1986 itself. Ex.A-3 shows that the HUDA authorities have invited applications on or before 10.8.1986 to purchase the developed house plots at Shamshabad at the rate of Rs.100/- per Sq. Met. and, therefore, it must be presumed that definitely, it must have been earlier to the notification. It is contended by the learned counsel for the appellant that the learned Senior Civil Judge, failed to refer as to why he has not taken into consideration the market value fetched for this land while determining the compensation, but has relied on the price fetched for the lands located at Siddanthi Nagar, which is admittedly four Kms away from the acquired land, for which compensation was determined at Rs.40,000/- per acre and was confirmed by Hon'ble Supreme Court of India.

Admittedly when the lands at Siddanti Nagar were located 4 kms away from the acquired land, there is absolutely no justification in taking into consideration the market value fixed for those lands, more particularly when the Land Acquisition Officer himself has admitted that the lands nearer to the acquired lands were sold by HUDA at Rs.100/- per Sq. Met. in the year 1986. The cost of developed plots sold by HUDA was Rs.100/- per Sq. Met. Since the present acquisition is made on acreage basis, there is necessity to deduct 1/3rd towards developments like roads, etc. On the basis of this conclusion, the cost per acre of the land would come much more than Rs.2.00 lakhs per acre, as, even if the net area after deduction for development is taken to be 2500 Sq. Mts., the total cost per acre would come to Rs.2,50,000/- . When HUDA itself has sold the

5

land at Rs.100/- per Sq. Met. there was absolutely no justification for it in granting less compensation for the lands, which it has acquired, in the present case. Considering the circumstances, we are of the opinion that the compensation claimed by the claimant ranging from Rs.1,10,000/- to Rs.1,30,000/- in various O.Ps. is quite appropriate."

appearing	Shri	V.	Shekhar,	learned	senior	counsel
judgment	for	the	petitioner	assailed	the	impugned
value of the	by	arguing that	while fixing	higher market		
consider	the	sale	instances	relied	upon	by
petitioner.	Learned	counsel	submitted		that	the
Reference Court	had fixed	market value	of the	acquired		

land after giving due weightage to the sale instances relied upon by the petitioner but the High Court completely ignored the same. However, he fairly stated that the Hyderabad Urban Development Authority had sold plots at the rate of Rs.100/- per square meter in 1986 after carrying necessary developments.

We have considered the submissions of the learned senior counsel, but have not felt impressed. It is true that the value of the three sale instances of 1986 relied upon by learned counsel for the petitioner was less than Rs.1,00,000/- per acre but we can take judicial notice of the fact that in private transactions involving sale of land, the parties have the tendency to undervalue the property so that they may avoid payment of the requisite stamp duty. However, when the land is sold or allotted by a public authority, the price is fixed by taking into consideration various factors including the cost of development and there is no scope for under valuation. Therefore, the price charged by a public authority for

6

sale or allotment of land can be safely relied upon for the purpose of determining market value of the land situated in the vicinity, which is acquired for a public purpose, of course, after applying reasonable cut in lieu of the cost of development. Therefore, the High Court did not commit any error by relying upon the price charged by the Hyderabad Urban Development Authority for sale of plots in the land developed by it.

In the result, the special leave petitions are dismissed.

we direct the petitioner to deposit the balance amount with the Land Acquisition Officer by 31.3.2011 in the form of demand draft drawn in the name of land owners and/or their legal representatives.

With a view to ensure that the land owners are not fleeced by the middleman, we deem it proper to issue following further directions:

(i) The Land Acquisition Officer shall depute officers subordinate to him not below the rank of Naib Tehsildar, who shall get in touch with all the land owners and/or their legal representatives and inform them about their entitlement and right to receive enhanced compensation.

(ii) The concerned officers shall also instruct the land owners and/or their legal representatives to open savings bank account in case they already do not have such account.

(iii) The bank account numbers of the land owners should be given to the Land Acquisition Officer within three months.

(iv) The Land Acquisition Officer shall deposit the demand drafts of compensation in the bank accounts

7

of the land owners.

A copy of this order be sent to the respondents in these special leave petitions so that they may contact concerned Land Acquisition Officer for payment of the balance amount of compensation.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master