CASE NO.:
Appeal (civil) 6489-6490 of 2000

PETITIONER:
Land Acquisition Officer, A. P.

RESPONDENT:
Kamadana Ramakrishna Rao & Anr.

DATE OF JUDGMENT: 07/02/2007

BENCH:
C. K. Thakker & Lokeshwar Singh Panta

JUDGMENT:
J U D G M E N T

Lokeshwar Singh Panta, J.

These two appeals are directed against a common order dated 11.11.1998 passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in AS No.1999/96 and AS No.31/98. By the impugned order, the High Court enhanced the amount of compensation to Rs.22,000/- per acre as against Rs.6,000/- awarded by the learned Subordinate Judge, Eluru, West Godavari District.

These appeals are taken up and heard together and are decided by this common judgment.

The facts, in brief, are that the State of Andhra Pradesh issued a Notification dated 03.01.1980 under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') for the acquisition of lands admeasuring Ac 385.46 in Borrampalem village of Chintalapudi Taluk for foreshore submersion of Yerakalva Reservoir Scheme under Vengalaraya Sagar Project. Land of the claimants-respondents to the extent of Ac 9.53 each was acquired for the said purpose. After completion of the proceedings under the Act and after observing all formalities, the Land Acquisition Officer awarded compensation at the rate of Rs.1026/- per acre to the claimants\026respondents vide his Award dated 18.05.1984. The claimants-respondents received the amount of compensation under protest and submitted separate applications under Section 18 of the Act requesting the Land Acquisition Officer to refer the matter to the Court. The matter was accordingly referred to the Court of the learned Subordinate Judge, Eluru. The Reference Court observed that the Land Acquisition Officer had not considered the potentiality of the acquired land with other lands of similar quality and potentiality. However, taking into consideration the trend in the increase of the prices of the lands, compensation is awarded at the rate of Rs. 300/- per acre on yield basis of the crops and multiplier of 20 years capitalization was applied and an amount of Rs.600/- per acre has been awarded to the claimants-respondents. The Court also found that there were no fruit-bearing trees on the acquired lands.

The claimants-respondents, being still dissatisfied with the enhancement of the amount of compensation awarded by the Reference Court, filed two separate appeals under Section 54 of the Act before the High Court.

The High Court has come to the conclusion that the Reference Court did not adopt the correct procedure in determining the compensation, as the lands are situated in the

important area of West Godavari District, for which the compensation ought to have been not less than Rs. 25,000/- per acre. The High Court observed that for similar lands acquired for the same purpose prior to the issue of the Notification under Section 4 of the Act in the present cases, the compensation was fixed at Rs. 20,000/- per acre. If that is taken into consideration as the basis for giving 10% escalation, the compensation will be at Rs. 24,000/- per acre. However, the High Court awarded the amount of compensation at the rate of Rs. 22,000/- per acre to the claimants-respondents, besides other benefits as prescribed under the law.

The Land Acquisition Officer, being aggrieved against the order of the High Court, has filed these appeals.

We have heard learned counsel for the parties. The learned counsel for the appellant raised two contentions. Firstly, he submitted that the High Court has committed an error of law in not deducting amount towards cost of cultivation and no reasons whatsoever are given by the High Court in its order for enhancement of the compensation from Rs. 6,000/- per acre to Rs. 22,000/- per acre. Secondly, it was contended that the Reference Court had erroneously applied multiplier of 20 for capitalizing the income. Such multiplier should not be more than 10. On both these grounds, therefore, according to the learned counsel for the appellant, the impugned order is liable to be set aside and the order passed by the Land Acquisition Officer deserves to be restored.

Learned counsel for the claimants-respondents, on the other hand, submitted that having considered the rival contentions of the parties and keeping in view the evidence on record, the High Court awarded just and reasonable amount of compensation to the claimants-respondents. The present appeals, therefore, deserve to be dismissed.

Having given our careful consideration to the submissions of the learned counsel for the parties and after having gone through the material on record, and having considered the relevant decisions of this Court, we are of the view that the appeals deserve to be dismissed.

So far as the first point is concerned, the learned counsel for the appellant relied upon a decision of this Court in State of Gujarat v. Rama Rana, [(1987) 2 SCC 693]. In that case, compensation was awarded to the claimant on yield basis. There was no sufficient evidence as to the income from agriculture and the Reference Court noticed that the witnesses exaggerated the yield. In the circumstances, the Reference Court determined the market value after deducting 1/3rd towards cultivation expenses and awarded compensation on that basis. The High Court dismissed the appeal and confirmed the order. The State approached this Court. Allowing the appeal and reducing the amount of compensation, this Court observed that it is common knowledge that expenditure is involved in raising and harvesting the crop and on an average, 50% of the value of the crop realized would be spent towards cultivation expenses. Deduction of 1/3rd, in the circumstances, was improper in determining the compensation of the land on the basis of yield. The Court also applied multiplier of 10.

Learned counsel for the appellant submitted that in the instant cases, no deduction whatsoever has been made by the Reference Court or by the High Court. It was submitted that only on the basis of yield and gross income, the Reference Court granted compensation to the claimants, which was enhanced by the High Court without giving any plausible and tenable reasons. He, therefore, submitted that the Award

deserves interference.

Learned counsel for the claimants-respondents, on the other hand, submitted that the decision in Rama Rana's case (supra) does not apply to the facts of these cases. In the present matters, upon some portion of the acquired land cashew nut bearing trees were planted and in the rest of the land, different variety of crops were grown. It is in the evidence that the trees were sufficiently old and grown up and were giving fruits and it has been deposed by the claimants-respondents in their evidence. Thus, there was evidence on record to that effect. In the circumstances, there was no question of deduction of any amount towards expenses and the order passed by the High Court cannot be said to be incorrect.

In the facts and circumstances, in our opinion, the ratio laid down in Rama Rana's case (supra) would not strictly apply in the present cases inasmuch as in fruit growing trees the expenses would not be 50% as held by this Court. Moreover, the High Court also considered an important fact that the claimants-respondents would be entitled to much more amount of Rs. 25,000/- per acre on yield-basis but has fixed the market value of the land at the rate of Rs 22,000/- per acre. It, therefore, cannot be said that by not deducting the amount of expenses for cultivation, the High Court had committed any illegality. The first contention, therefore, in the facts of the present appeals, is rejected.

Let us now consider the second point. This Court in Special Land Acquisition Officer, Bangalore v. T. Adinarayan Setty, [(1959) Suppl. (1) SCR 404 : AIR 1959 SC 429] held that in awarding compensation under the Act, the Court has to ascertain market value of the land as on the date of Notification under Section 4(1) of the Act. It was observed that there were several methods of valuation, such as (1) opinion of experts, (2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages, and (3) a number of years' purchase of the actual or immediately prospective profits of the land acquired.

In Smt. Tribeni Devi v. Collector of Ranchi, [(1972) 1 SCC 480], this Court reiterated the methods of valuation and also stated that those methods do not preclude the Court from taking into consideration other circumstances, the requirement being always to arrive at the nearest correct market value. It was also indicated that in arriving at a reasonably correct market value, it may be necessary to take even two or all of those methods into account since the exact valuation is not always possible as no two lands would be the same either in respect of the situation or the extent or the potentiality nor would it be possible in all cases to have reliable material from which such valuation can be accurately determined.

In Special Land Acquisition, Davangere v. P. Veerabhadarappa and Ors., [(1984) 2 SCC 120], this Court held that when capitalization method for valuation is applied, proper multiplier should be 10. Similarly, in Special Land Acquisition Officer v. Virupax Shankar Nadagouda, [(1996) 6 SCC 124], relying on P. Veerabhadarappa's case, this Court determined compensation on the basis of 10 years' multiplier. In Krishi Utpadan Mandi Samiti v. Malik Sartaj Wali Khan and Anr., [(2001) 10 SCC 660], this Court held that computation of compensation for determination of market value may be carried out on yield basis and multiplier of 10 should be applied. Since multiplier of 20 was applied by the High Court it was set aside by this Court by reducing the amount of compensation.

Again in a recent decision in Assistant Commissioner-cum-Land Acquisition Officer, Bellary v. S.T. Pompanna Setty, [(2005) 9 SCC 662] it is reiterated that where compensation is awarded on yield basis, multiplier of 10 is considered proper and appropriate.

Applying the ratio of the decisions of this Court in the above-said cases, we are of the view that the High Court committed no error of law or any perversity in awarding the amount of compensation at the rate of Rs. 22,000/- per acre to the claimants-respondents. It is no doubt true that the High Court has not given adequate and proper reasons in its order, but the pith and substance of the order cannot be found to be faulty.

The claimants-respondents have placed on record Ex. A-2, a certified copy of the Agreement to sell and Ex. A-3, the Registration Extract of the Sale Deed in pursuance to Ex. A-2. PW-2, the purchaser of the land, has purchased one acre of land for Rs. 19,800/- from Durga Prasad, a resident of Mathannagudem village. PW-1 has placed on record a copy of the Award in O.P. No. 88 of 1982 (Ex. A-4), whereby and whereunder the Reference Court enhanced the amount of compensation at the rate of Rs. 22,000/- per acre for the land in Mathannagudem village, which was acquired for the same purpose. A copy of the Award in O.P. Nos. 70 of 1982 and 71 of 1982, marked as Ex. A-5, would reveal that the Reference Court awarded a sum of Rs. 22,000/- per acre for the lands acquired for the same purpose in village Borrampalem. It has come in the evidence of PW-1 that against the said Award the State Government preferred an appeal, which came to be dismissed by the High Court on 10.02.1989, a certified copy whereof was placed on record as Ex. A-6 in support of the claims by the claimants-respondents. The claimants-respondents made the claim of their lands at the rate of Rs. 40,000/- per acre. The Reference Court has noticed in its order that village Mathannagudem, village Tadavi and village Borrampalem in which the lands of the claimants-respondents were acquired are quite adjacent to each other. The Land Acquisition Officer himself awarded compensation at the rate of Rs. 12,000/- per acre for the lands covered by S. No. 98 of village Borrampalem vide Award Ex. A-5. The Reference Court has rejected the claim raised by the claimants-respondents for compensation of cashewnut plants planted in an area to an extent of Ac. 4.50 cents in the acquired lands, merely on the ground that no trees were found in existence on the lands at the time of the Notification under Section 4 of the Act or at the time of passing of the Award. The High Court has not recorded any finding in respect of the cashew nut plants grown by the claimants-respondents on some portions of the acquired land.

The Land Acquisition Officer in his order has recorded that rain-fed crops such as horsegram, bobbara, cholum were grown by the claimants-respondents in the acquired land No. F. 1384 to 1388 and in F. 1388, cashew nut plants were raised in some parts of the land to the extent of about Ac. 9.00 cents. Therefore, the finding of the Reference Court that there were no cashew nut trees found on the acquired land is factually incorrect and cannot be sustained. It has come in the evidence of the claimants-respondents led before the Reference Court that they had raised maize crop at one time, which would have fetched Rs. 4,000 to Rs. 5,000 per acre to them and other crops jowar and bobbara in the next season. The computation of compensation for determination of market value may be carried out on yield basis and multiplier of 20 adopted by the Reference Court in the cases on hand is on the higher side and contrary to the well-settled proposition of law

as laid down by this Court. However, this Court is not precluded from taking into consideration other circumstances such as, the potentiality and utility of the land acquired and awarding just compensation to the claimants who are deprived of their lands and other property. Keeping in view the facts and circumstances of these cases, as discussed above, we are of the view that the amount of compensation awarded by the High Court at the rate of Rs. 22,000/- per acre to the claimants-respondents is adequate, just and reasonable and cannot be said to be excessive or unwarranted.

For the foregoing reasons, the appeals are, accordingly, dismissed. The parties shall bear their own costs.