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C.A.No. 1231-1242 OF 1999

ITEM NO.102

COURT NO.6

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NOS.1231-1242 OF 1999

K.V. SUBBA RAO & ORS.

APPELLANT (S)

VERSUS

LAND ACQUISITION OFFICER(TAHSILDAR) RESPONDENT(S)
(With appln(s) for permission to place addl. documents on record
and office report)

WITH Civil Appeal Nos.3120-3132 & 6525 of 1999
(With office report)

Date: 14/09/2004 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant(s)Mr. P.P. Rao, Sr.Adv.
Mrs. B.Sunita Rao, Adv.
Mr. Sushil Kr. Pathak, Adv.

For Respondent(s)Mr. M.N. Rao, Sr.Adv.
Mr. Mohanprasad Meharia,Adv.
Mr. A. Ramesh, Adv.
Mr. S.K. Mitra, Adv.

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

Mr. P.P. Rao, learned Senior counsel for the appellants started his arguments at 11.00 a.m. and concluded at 11.50 a.m. Thereafter, Mr. M.N. Rao, learned Senior counsel for the respondent made his submissions and concluded at 12.15 p.m. After that, Mr. P.P. Rao, learned Senior counsel made his submissions in reply for 10 minutes.
C.A.Nos.1231-1242 & 6525 of 1999 filed by the claimants are allowed and C.A.Nos.3120-3132/99 filed by the State are dismissed with no costs in terms of the signed order.

Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1231-1242 OF 1999

K.V. SUBBA RAO & ORS.

APPELLANTS

VERSUS

LAND ACQUISITION OFFICER (TAHSILDAR)

RESPONDENT

O R D E R

An area of 44 acres 57 cents of agricultural lands of Billapadu Village of Agraharam Mandal in Krishna District were acquired for the purpose of construction of house sites for weaker sections of the society. A notification under Section 4(1) of the Land Acquisition Act, 1894 ('the Act', for brevity) was issued on 13.1.1985. The Land Acquisition Officer determined the market value of the lands acquired @ Rs.30,000/- per acre. The claimants were not satisfied with the amount of compensation so determined. They sought for reference under Section 18 of the Act. The reference court, on consideration of the material placed before it, determined the market value of the acquired lands

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@ Rs.40,000/- per acre. Since the claimants were asking for the compensation @ Rs.1,20,000/- per acre, they were not satisfied with the compensation amount awarded by the reference court. In that view, they took up the matters in appeals before the High Court. The High Court, by the impugned judgment, enhanced the market value from Rs.40,000/- to Rs.50,000/- per acre. The claimants as well as the State both were aggrieved by the amount of compensation determined by the High Court in the impugned judgment. Hence, the claimants as well as the State are before us in these appeals.
The learned Senior counsel for the claimants contended that having regard to the sale deeds - Exhibits A1 to A9 and the oral evidence led on behalf of the claimants, the High Court was not right in determining the market value of the lands acquired @ Rs.50,000/- per acre. He pointed out that the lands acquired were adjoining to Gudivada municipality and that Gudivada is a big town and has been fast growing. He also submitted that the lands acquired are situated in the middle of the village. They were no doubt agricultural lands, but they were single crop wet lands. According to the learned counsel, the reference court, though

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accepted these sale deeds - Exhibits A1 and A9, had committed an error in deducting Rs.60,000/- per acre; the High Court committed a serious error in not relying upon these documents being valuable pieces of evidence. The learned counsel urged that having regard to the potentiality, nature of the lands acquired, keeping in view both the oral and documentary evidence and also taking into consideration the escalation of price, the High Court ought to have determined the market value as claimed by the claimants.
In opposition, the learned Senior counsel for the respondent-State urged that the market value determined by the High Court is itself on little higher side. He further submitted that although the sale deeds - Exhibits A1 to A9 pertained to the lands in the same village, but there was not evidence to show that these sale deeds were in close proximity with the lands acquired. In support of this submission, he pointed out to survey numbers to show that the lands acquired were not adjoining to the lands covered by the sale deeds. The learned counsel added that the lands, which were sold under Exhibits A1 to A9, are small bits of lands and the lands acquired under the notification totally measure 44 acres 57 cents. If the claimants were to sell this area

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by making house sites, that would have taken a long number of years. In the absence of proper evidence as to the location of the lands acquired and taking note of the fact that they were agricultural lands, the reference court was right in determining the market value of the lands acquired @ Rs.40,000/- per acre.

We have carefully considered the submissions made by the learned Senior counsel for the parties on either side. The facts that are not in dispute are that the lands acquired were single crop wet lands. As is evident from the impugned judgment that the lands acquired are of Billapadu village adjoining to Gudivada municipality; Gudivada is a very big and an ever growing town and the prices of the lands were rising very sharply. The High Court in the impugned judgment has stated that this position was not in dispute. Annexures A1 to A9, which were relied upon by the reference court, show that prices of the lands covered by those sale deeds were varying from Rs.96,800/- to 1,20,000/- per acre. The reference court took the market value on an average of Rs.1,00,000/- per acre and after giving deduction of Rs.60,000/- per acre towards developmental charges, arrived at the market value of the acquired lands @ Rs.40,000/- per

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acre. Unfortunately, the High Court did not rely upon these documents on the ground that none concerned had been examined in support of these documents. It is clear from the evidence of PW1 (one of the claimants) that the acquired lands are in the middle of Billapadu Village. There are residential houses towards East and West of the acquired lands. Billapadu village starts after crossing the railway gate of Gudivadu Pamarru Road. The village is adjacent to the municipal limits of Gudivada. There is a paccamental road leading to the acquired lands and the acquired lands do not require any leveling and that the acquired lands were fit for construction of houses. This evidence of PW1 remains unchallenged inasmuch as there is no cross-examination by the other side on these aspects. PW3, a witness examined in support of the case of the claimants, in his deposition states that the acquired lands were at a higher level than the land purchased by him and that the acquired lands were better lands than the land purchased by him. The reference court took the average market value of the lands covered by Annexures A1 to A9 @ Rs.1,00,000/- per acre. It is pointed out by the learned counsel for the State that these documents pertain to the small bits of lands. Since the area acquired

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is a vast land of 44 acres and 57 cents, we can safely say that the market value could be taken @ Rs.70,000/- per acre. Exhibits A1 to A9 pertain to the period between 1982 to 1983 and Section 4(1) notification in these cases was issued on 13.1.1985. If the escalation of the price of the lands is taken as Rs.10,000/- per acre for two years, it comes to Rs.90,000/- per acre. Having regard to the fact that the lands acquired were agricultural lands, certain amount has to be deducted towards developmental charges. Looking to the facts and circumstances and the evidence that has come on record, we think it is just and appropriate to give deduction of 1/3 per acre. If this deduction is given, the market value of the lands acquired comes to Rs.60,000/- per acre. We, accordingly, modify the impugned judgment and determine the market value @ Rs.60,000/- per acre instead of @ Rs.50,000/- per acre. The claimants are entitled to all the statutory benefits on the basis of the market value so determined.

Civil Appeal Nos.1231-1242 & 6525 of 1999 filed by

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the claimants are allowed accordingly and Civil Appeal Nos.3120-3132 of 1999 filed by the State are dismissed.
No costs.

.....J.
[SHIVARAJ V. PATIL]

New Delhi,J.
September 14, 2004. [B.N. SRIKRISHNA]