

LAND ACQUISITION OFFICER, HYDERABAD ETC.

v.

MALE PULLAMMA AND ORS. ETC.

MARCH 21, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Land Acquisition Act, 1894 : Section 4(1) and 23.*

*Land Acquisition—Determination of compensation—Agricultural lands—Poultry farms set up in part of lands—Acquisition of—Finding of Land Acquisition Officer and Reference Court that there was no development in the area or in the neighbourhood on the date of Notification—High Court awarding compensation after making deduction towards developmental charges—Held High Court was wholly wrong in determining the market value treating the acquired lands as possessing potential value—Question of deduction would arise only when the lands are found to have potential value and there is evidence of development in the neighbourhood.*

*Land Acquisition—Compensation—Sale deed executed just before the notification was published under Section 4(1)—Held it could not form the sole basis for determination of compensation.*

*P. Ram Reddy & Ors. v. Land Acquisition Officer, Urban Development Authority, Hyderabad & Ors., [1995] 2 SCC 305, held inapplicable.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5250 of 1996 Etc.

From the Judgment and Order dated 8.7.93 of the Andhra Pradesh High Court in A.S. No. 1176 of 1991.

G. Prabhakar for the Appellants.

Venugopal Reddy, J.B. Dadachanji, M. Purshottam and A.Z.S. Pasrich for the Respondents.

The following Order of the Court was delivered :

Delay condoned.

Leave granted.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') acquiring 89 acres, 37 gunthas of land situated in Siddanti village of Shamshabad in Ranga Reddy District of Andhra Pradesh was published on 16th October, 1982. The Land Acquisition Officer in his award dated May 13, 1987 determined compensation @ Rs. 20,000 per acre. In addition, he also awarded Rs. 63,616 towards the value of the structures constructed on the land in which poultry farms were set up. On reference, the Subordinate Judge, Ranga Reddy District by his award and decree dated February 20, 1991 enhanced the compensation to Rs. 35,000 per acre. In addition, he also awarded Rs. 50,000 more than the amount awarded by the Land Acquisition Officer towards the value of the structures. On appeal, the Division Bench of the High Court in A.S. Nos. 1176 and 2077 of 1991 by order dated July 8, 1993 enhanced the compensation to Rs. 14 per square yard which worked out to Rs. 67,800 per acre and remitted the case with regard to determination of value of structures. Thus this appeal by special leave.

Shri Venugopal Reddy, learned senior counsel for the respondents, contended that this in *P. Ram Reddy & Ors. v. Land Acquisition Officer, Urban Development Authority, Hyderabad & Ors.*, [1995] 2 SCC 305, considering various factors in evaluating the market-value, stated seven circumstances to be taken into consideration in determining the compensation. The High Court accepted the sale instance Ex.A-4 dated September 8, 1982 which is earlier in point of time than the date of the notification under which the land was sold at Rs. 30 per square yard. The High Court, therefore, after giving deductions at 53% towards the developmental charges etc. determined the market price as Rs. 14 per sq. yd. The fixation of the market-value, therefore, is not vitiated by any error of law. He also contended that the High Court has recorded a finding that the lands are possessed of potential value. On that basis, deduction towards further development was given and fixation of the market-value cannot, therefore, be said to be illegal.

We find no force in the contention. It is seen that the respondents themselves had admitted during cross-examination that the lands were agricultural lands as on the date of the notification. They had set up a

poultry farm in it and to that small extent it was being used as such. Both the reference Court and the Land Acquisition Officer found, as a fact, that the lands are agricultural lands. The High Court has noted in the judgment that some development had already taken place around the area and in the neighbourhood there is a railway station, hospital and school etc. On that basis the High Court has held that the lands had the potential value for building purposes. The finding is wholly unsustainable on the basis of the evidence on record. It is seen that as on that date of the notification, admittedly, the land were being used for agriculture purposes and a part of the land was used for poultry purposes. Under these circumstances, It could not be said that the lands have the potentiality to be used as building sites as on the date of the notification. Sale deed dated September 8, 1982 (Ex. A-4) was executed just before the notification was published under Section 4 (1) in respect of an extent of 198 square yards of land which worked out to Rs. 30 per square yard. By no stretch of imagination it could form the sole basis for determination of the compensation. Ex. A-4 is, therefore, rejected as no prudent purchaser would be willing to purchase vast extent of land on that basis. The feats of imagination of the Division Bench of the High Court had run riot.

When Ex. A-4 is excluded from consideration, the only question that arises is : whether the lands could be determined as possession building value in hypothetical layout, as contended by Shri Venugopal Reddy. In *P. Ram Reddy's* case (supra) the lands were abutting the developed area in which the building plots were sold for those purposes, as was admitted by the Land Acquisition Officer which was noted in the judgment. In view of that development, this Court had laid down the criterion in determining the market-value. The ratio thereof has no application to the facts in this case. The question of deduction would arise only when the lands are found to have potential value and there is evidence of development in the neighborhood. Facts, as found by the reference Court and also Land Acquisition Officer, clearly indicate that there was no development in the area or in the neighbourhood as on the date of the notification. Under those circumstances, the High Court was wholly wrong in determining the market-value treating the acquired lands as possessing potential value. The next question is : what would be the just and adequate compensation which the lands are capable to fetch ? In view of the findings of the reference Court that the lands are agricultural lands, we think that just and proper

compensation would be Rs. 40,000 per acre. With regard to the value of the structures, the remand order is maintained. The court will determine the same according to law.

The State appeals are accordingly allowed. The claimants' appeal is dismissed. No costs.

Appeal dismissed.