

The Land Acquisition Officer Revenue ... vs Smt. L. Kamalamma (Deed) By Trs. & Ors., ... on 19 January, 1998

Equivalent citations: AIR 1998 SUPREME COURT 781, 1998 (2) SCC 385, 1998 AIR SCW 497, 1998 (1) SCALE 133, 1998 (1) ADSC 424, 1998 () ALL CJ 639, 1998 (1) UJ (SC) 365, (1998) 1 JT 141 (SC), 1998 (1) JT 141, (1998) ILR (KANT) 926, (1998) 1 LANDLR 559, (1998) 2 MAD LJ 92, (1998) 1 LACC 116, (1998) 1 SUPREME 251, (1998) 1 ANDH LT 27, (1998) 1 CURCC 58, (1998) 1 SCALE 133

Bench: G.T. Nanavati, S. Rjendra Babu

PETITIONER:

THE LAND ACQUISITION OFFICER REVENUE DIVISIONAL OFFICER, CHI

Vs.

RESPONDENT:

SMT. L. KAMALAMMA (DEED) BY TRS. & ORS., K. KRISHNAMACHARI A

DATE OF JUDGMENT: 19/01/1998

BENCH:

G.T. NANA VATI, S. RJENDRA BABU

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T Rajendra Babu, J.

Leave granted.

An extent of land measuring 10 acres 1 cent comprised in different survey numbers situated at Puttur adjoining Govindapalem of Chittoor District was notified for acquisition under Section 4 (1) of the Land Acquisition Act (hereinafter referred to as "the Act") in the Gazette on 28th April, 1977. After issuing final notification under Section 6 of the Act, the Land Acquisition Officer passed an award on 28.2.1981 determining the compensation payable in respect of the lands in question. He

grouped the lands into five categories and paid at different rates of compensation. So far as lands which were classified by him as non agricultural, he fixed a compensation of Rs. 50/- per sq. yard to the rest of the groups depending upon their locations. He also classified certain lands as agricultural lands and awarded a compensation of Rs. 9375/- per acre and Rs. 13,334 /- per acre depending upon their locations. On a reference made under Section 18 of the Act to the Civil Court, the award made by the Land Acquisition Officer was modified having found that classification into agricultural and non-agricultural lands or into four groups in non- agricultural lands was not sustainable and entire land had a potentiality of being used for building purposes and, therefore, the compensation was fixed at Rs. 100/- per sq. yard. The matter was carried by the Land Acquisition Officer in appeal to the High court Under Section 54 of the Act and certain claimants also filed cross appeals. The High Court took into consideration that in puttur town, the trend of price was on the rise at a fast pace and bearing in mind the future potentiality of the land in question in comparison to sales of similar lands accepted the rate fixed by the Reference Court, however by reducing by 25 per cent thereof inasmuch as 1/4 the of the land will have to be reserved for drains. sewers, roads and such other amenities to be provided in the lay out that may be formed subsequently.

Another piece of land measuring about a 1 acre 55 cents was also acquired under a Notification under section 4 (1) of the Land Acquisition Act published in gazette on 15.3.1974 for the same purpose and the Land Acquisition Officer determined compensation payable at Rs. 10,526/- per acre while on Reference, the Civil Court enhanced the same to Rs. 100/- per sq. Yard and the High court on appeal fixed the market value at Rs. 125/- per sq. The Compensation was reduced by Rs. 30/- per sq. yard following its decision to which we have referred to now. These two appeals are preferred by the Land Acquisition Officer.

In challenging this order made by the High Court Shri Nageshwar Rao, learned counsel for the appellant submitted that the High Court and the Reference Court relied upon Ex. B- 30 which is a sale deed dated 9.8.1976 under which 100 sq. feet of land had been sold. neither the High Court nor the Reference Court ought to have relied upon this document since the land situated was far away from the lands in question. Apart form the fact that it was only a small piece of land which had been sold whereas a vast tract of land measuring over 10 acres was acquired under the Notification in question, he also pointed out that even assuming that the rate mentioned in Ex. B-30 could be taken into consideration in determining the market value of the land, sufficient deductions had not been given towards development and other relevant matters. He also submitted that the compensation paid should be drastically reduced.

Learned counsel for the respondents, however, submitted that the High Court and the Reference Court had been all relevant factors into consideration in determinant the market value and compensation awarded by them is unassailable.

The general trend in the prices of land is on the rise ad the judicial notice of the same had been taken by the High Court correctly and therefore, cannot be challenged. Puttur is an urban area and the Lands in question are abutting the main road leading from Tirupathi to Ankonam via Puttur and the acquired land was in the heart of Puttur town. To the north of the land was in the heart of puttur town. To the north of the land in question there is a famous Venkateswaraswamy Temple and to the

immediate south, the famous Tiruthani, one of the abodes of Lord Subrahmanya swamy. Therefore taking into consideration, the topography of the land we may safely proceed on the basis that the High Court had correctly noted the Situation of the land in question which has the potentiality of being developed as urban land. Exb. B-30 is a sale deed dated 9th August, 1976, the transaction having taken place prior to eight months from the issue of preliminary Notification for acquisition of land in the present case. Having found that that piece of land refereed in Ex. B- 30 is situated very close to the lands that are acquired under the Notification in question the Reference Court and the High Court relied upon the said document and, in our view, rightly. Further when no sales of comparable land was available where large chunks of land had been sold, even land transactions in respect of smaller extent of land could be taken note of as indicating the price that it may fetch in respect of large tracts of land and by making appropriate deductions such as for development of the land by providing enough space for roads, sewers, drains, expenses involved in formation of a lay out, lumpsum payment as also the waiting period required for selling the sites that would be formed.

The argument advanced by Shri Nageshwar Rao that the classification by land Acquisition Officer was in Order and ought not to have been interfered with by the Reference Court or the High Court does not appeal to us. When a land is acquired which has the potentiality of being developed into an urban land, merely because some portion of it abuts the main road, higher rate of compensation should be paid while in respect of the lands on the interior side should be at lower rate may not stand to reason because when sites are formed those abutting the main road may have its advantages as well as disadvantages. Many a discerning customer may prefer to stay in the interior and far away from the main road and may be willing to pay reasonably higher price for that site. One cannot rely on the mere possibility so as to indulge in a meticulous exercise of classification of the land as was done by the Land Acquisition Officer when the entire land was acquired in one block and therefore classification of the same into different categories does not stand to reason.

The Reference Court, however, merely took note of the price noted in Exb. B-30, the sale deed while the High Court deducted only towards the space that was required for formation of roads or other amenities altogether ignoring the time required for formation of the lay out, the period for which the money would be locked up in the investment and the waiting period as also for the reduced price for land when lumpsum payment is made. Bearing in mind these aspects we are of the view that the High Court should have reduced the price arrived at by the Reference Court at Rs. 100/- per sq. yard by atleast 40 per cent.

In the circumstances of the case, we hold that the market value fixed at Rs. 100/- sq. yard relying upon Exb. B- 30 , the sale deed, to be correct. However, we reduce the compensation payable to Rs. 60/- per sq. yard computing the whole of the land under acquisition in the two cases on the aforesaid basis. The respondents are entitled to the statutory benefits as awarded by the courts below. The award made by the Reference Court as modified by the High court shall stand further modified as indicated by us in the course of the Order. The appeals are allowed in part.