

S. SHANKARAIAH THR. GPA HOLDER & ORS

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v.

THE LAND ACQUISITION OFFICER AND REVENUE DIVISIONAL
OFFICER PEDDAPALI KARIMNAGAR DIST. & ORS.

(Civil Appeal No. 6821 of 2022)

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NOVEMBER 09, 2022

[M. R. SHAH AND KRISHNA MURARI, JJ.]

Land Acquisition Act, 1894 – Purpose of acquisition of land relevant factor for determining market value and deduction of developmental charges – Deduction of developmental charges, when not proper – Lands acquired for excavation of coal – Land Acquisition Officer fixed the market value for the acquired lands – Not satisfied with the compensation, the original land owners/claimants sought references – Reference Court fixed the market value at Rs.30,000/- and Rs.50,000/- per acre with compensation @ Rs.15,000/- per acre towards sub-soil mineral rights – High Court awarded compensation @ Rs.80,000/- per acre considering the market value of the land at Rs.1,23,000/- per acre and thereafter deducting 1/3rd, in addition High Court also awarded Rs.10,000/- per acre as part of the market value for sub-soil rights – On appeal, held: The purpose for which acquisition is made is also a relevant factor for determining the market value and the purpose for which the land is acquired must also be taken into consideration – In the present case, when the acquisition is solely for the purpose of excavation of coal and the entire land is acquired on the basis of the estimates of the coal reserve identified and the entire land is to be mined and used and no further developmental activity is required, the High Court erred in deducting 1/3rd towards developmental activities – Further, additional amount of Rs.10,000/- per acre awarded on account of coal deposits, not interfered with – Thus, original claimants are entitled to the compensation for the lands acquired at Rs.1,23,000/- per acre with other statutory benefits which may be available under the Act – In addition, also entitled to Rs.10,000/- per acre as awarded by the High Court on account of coal deposits – Impugned judgment modified to the aforesaid extent.

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A **Partly allowing the appeals, the Court**

HELD: The purpose for which acquisition is made is also a relevant factor for determining the market value and the purpose for which the land is acquired must also be taken into consideration. Thus, when the acquisition is solely for the purpose of excavation of coal and the entire land is acquired on the basis of the estimates of the coal reserve identified and the entire land is to be mined and used and no further developmental activity is required, in the facts and circumstances of the case, the High Court has erred in deducting 1/3rd towards the developmental activities. The additional amount awarded by the High Court at Rs.10,000/- per acre on account of coal deposits is not required to be interfered with more particularly when the same has been confirmed by this Court in as much as the appeals preferred by the respondents have been dismissed by this Court. The original claimants shall be entitled to the compensation for the lands acquired at Rs.1,23,000/- per acre with other statutory benefits which may be available under the provisions of the Act, 1894. In addition, the original claimants shall also be entitled to Rs.10,000/- per acre as awarded by the High Court on account of coal deposits. The impugned common judgment and order passed by the High Court is modified to the aforesaid extent. [Paras 6.2, 6.3, 7 and 8][100-D; 101-C-E]

Nelson Fernandes & Ors. v. Special Land Acquisition Officer South Goa & Ors. (2007) 9 SCC 447 : [2007] 3 SCR 563 – relied on.

F *Basavva v. Spl. Land Acquisition Officer, (1996) 9 SCC 640 : [1996] 3 SCR 500 – referred to.*

Case Law Reference

	[2007] 3 SCR 563	relied on	Para 3.1
G	[1996] 3 SCR 500	referred to	Para 6.2

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6821 of 2022.

From the Judgment and Order dated 06.12.2013 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Appeal Suit No. 1634 of 2001 in O.P. No. 76 of 1988.

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With A

Civil Appeal Nos. 6823, 6824 and 6825 of 2022.

A. Mariarputham, Sr. Adv., Sridhar Potaraju, Ms. Sindoor VNL, Ms. Shiwani Tushir, Rajat Srivastava, P. Parmeswaran, Anurag Dayal Mathur, Ms. Anuradha Arputham, Sharan Thakur, Shantanu Singh, Siddharth Thakur, Ravi Sehgal, Dr. Sushil Balwada, S. Udaya Kumar Sagar, P. Venkat Reddy, Prashant Kr. Tyagi, P. Srinivas Reddy for M/s. Venkat Palwai Law Associates, Advs. for the appearing parties. B

The Judgment of the Court was delivered by

M. R. SHAH, J. C

1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 06.12.2013 passed by the High Court of Andhra Pradesh at Hyderabad in respective first appeals No. 1634 of 2001 and other allied appeals, the original land owners/claimants have preferred the present appeals seeking enhancement of the amount of compensation for the lands acquired. D

2. Large extent of land in different survey number in Adrial Village of Manthani Mandal, Karimnagar District came to be acquired by the State Government for the benefit of Singareni Collieries Company Limited. The lands were acquired for the purposes of excavation of coal. Notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act, 1894') came to be issued on 13.05.1985. Declaration under Section 6 of the Act 1894 was issued on 31.07.1985. The Land Acquisition Officer passed the awards in the year 1987, fixing the market value for the acquired lands at Rs.7,000/- per acre for Category 1 – Dry Lands under Cultivation and at Rs.6000/- per acre for Category 2 – Dry Lands Left Fallow. Not satisfied with the compensation awarded by the Land Acquisition Officer, the land owners sought references under Section 18 of the Act, 1894. The land owners claimed the compensation at Rs.2 lakhs per acre. The Reference Court fixed the market value at Rs.30,000/- per acre and Rs.50,000/- per acre. The Reference Court also awarded the compensation @ Rs.15,000/- per acre towards sub-soil mineral rights. By the impugned common judgment and order the High Court has determined and awarded the compensation @ Rs.80,000/- per acre considering the market value of the land Rs.1,23,000/- per acre and thereafter deducting 1/3rd. The High E F G

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- A Court has also in addition awarded Rs.10,000/- per acre as part of the market value for sub-soil rights.

- 2.1 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court determining and awarding the compensation at Rs.80,000/- per acre and Rs.10,000/- per acre for sub-soil rights on account of the coal deposits, the original claimants – land owners have preferred the present appeals.

- 2.2 At the outset, it is required to be noted that against the very impugned common judgment and order the beneficiary – Singareni Collieries Company Limited approached this Court by way of special leave petitions which have been dismissed. The review applications are also dismissed. Therefore, the short question which is posed for consideration before this Court is whether the amount of compensation determined/awarded by the High Court is required to be enhanced in the appeals preferred by the original claimants/land owners?

- D 3. Learned Counsel appearing on behalf of the appellants has submitted that while determining/awarding the compensation the Hon'ble High Court has not appreciated that the petitioners were the absolute owners of the land including the sub-soil minerals and were not merely tenure holders. It is submitted that therefore while determining the amount of compensation for the land acquired claim for sub-soil minerals rights was also required to be considered. It is submitted that in the impugned judgment and order the Hon'ble High Court has also specifically given the findings that the nature of deposits existing on the surface or the sub-soil of a land would play an important role and if there are any deposits of rare minerals or precious stones, that would add to the market value of the land. It is submitted that though the Hon'ble High Court has observed that it is not proper for the Land Acquisition Officer or the Civil Court to separately award the compensation towards sub-soil mineral rights, thereafter it is observed that it is permissible to take the fact or into account, while determining the market value.

- G 3.1. It is further submitted by learned counsel appearing on behalf of the land owners/claimants that even otherwise the acquisition was solely for the purpose of excavation of the coal and there was no other purpose for the acquisition and the entire acquired land is being excavated on the basis of the estimates of the coal reserves identified therein, the Hon'ble High Court has erred in deducting 1/3rd towards the development.
- H It is submitted that since the entire land is to be mined, there is no wastage

of land on account of any developmental activities, such as roads, sewage lines, parks etc. which are required to be carved out in industrial/commercial/housing layouts. It is submitted that therefore, the deduction from the compensation determined may not be permissible in absence of any justification for such deduction as the entire land is having coal reserves. Reliance is placed upon the decision of this Court in the case of **Nelson Fernandes & Ors. versus Special Land Acquisition Officer South Goa & Ors.** reported in (2007) 9 SCC 447.

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4. Shri A. Mariarputham, learned Senior Advocate appearing on behalf of the respondents while opposing the present appeals has submitted that the amount determined by the Hon'ble High Court which includes Rs.10,000/- per acre towards the coal deposits, the same is not required to be interfered with by this Hon'ble Court.

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4.1 Now so far as 1/3rd deduction made by the Hon'ble High Court from Rs.1,23,000/- per acre it is submitted that as per the settled position of law there shall be an appropriate deduction towards the development and therefore 1/3rd deduction can be said to be just and reasonable deduction towards the development, which is not required to be interfered with.

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Making above submissions, it is prayed to dismiss the present appeals by further submitting that as such the appeals preferred by the respondents - Singareni Collieries Company Ltd. & Ors. have been dismissed by this Court and the judgment and order passed by this Hon'ble High Court has been confirmed by this Court.

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5. Heard learned counsel appearing on behalf of the respective parties at length.

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6. By the impugned common judgment and order the High Court has determined and awarded Rs.80,000/- per acre. The High Court has also granted/awarded Rs.10,000/- for sub-soil rights on account of coal deposits. Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court, the original claimants/land owners have preferred the present appeals seeking enhancement of the amount of compensation.

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6.1 At the outset, it is required to be noted that so far as the appeals preferred by the respondents - Singareni Collieries Company Ltd. & Ors., the same have been dismissed by this Court.

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- A 6.2 While determining and awarding the compensation at Rs.80,000/- per acre the High Court has considered the market value of the land in question at Rs.1,23,000/-. However, thereafter has deducted 1/3rd towards the development charges etc. and thereafter has awarded the actual amount of compensation at Rs.80,000/- per acre. It is the case on behalf of the claimants/land owners that the lands in question
- B have been acquired for the benefit of the mining company/Singareni Collieries Company Ltd. which is to be used for excavation of coal. The coal is already existed in the lands acquired. Since the entire land is to be mined and the coal is to be excavated, there is no wastage of land on account of any developmental activities such as roads, sewage lines,
- C parks etc. In that view of the matter, there is no development required and therefore 1/3rd deduction is not warranted at all. Identical question came to be considered by this Court in the case of **Nelson Fernandes** (supra) and after taking into consideration the earlier decision of this Court in the case of **Basavva vs. Spl. Land Acquisition Officer**, (1996) 9 SCC 640, in which this Court has held that the purpose for which
- D acquisition is made is also a relevant factor for determining the market value and the purpose for which the land is acquired must also be taken into consideration, thereafter in paragraph 29 it is observed and held as under:
- E “29. Both the Special Land Acquisition Officer, the District Judge and of the High Court have failed to notice that the purpose of acquisition is for Railways and that the purpose is a relevant factor to be taken into consideration for fixing the compensation. In this context, we may usefully refer the judgment of this Court in *Viluben Jhalejar Contractor v. State of Gujarat* [(2005) 4 SCC 789 : JT (2005) 4 SC 282] . This Court held that the purpose
- F for which the land is acquired must also be taken into consideration in fixing the market value and the deduction of development charges. In the above case, the lands were acquired because they were submerged under water of a dam. Owners claimed compensation of Rs 40 per sq ft. LAO awarded compensation ranging from Rs 35 to Rs 60 per sq m. Reference Court fixed the
- G market value of the land at Rs 200 per sq m and after deduction of development charges, determined the compensation @ Rs 134 per sq m. In arriving at the compensation, Reference Court placed reliance on the comparative sale of a piece of land measuring
- H 46.30 sq m @ Rs 270 per sq m. On appeal, the High Court awarded

compensation of Rs 180 per sq m in respect of large plots and Rs 200 per sq m in respect of smaller plots. On further appeal, this Court held that since the lands were acquired for being submerged in water of dam and had no potential value and the sale instance relied was a small plot measuring 46.30 sq m whereas the acquisition in the present case was in respect of large area, interest of justice would be subserved by awarding compensation of Rs 160 per sq m in respect of larger plots and Rs 175 per sq m for smaller plots. In *Basavva v. Spl. Land Acquisition Officer* [(1996) 9 SCC 640 : JT (1996) 5 SC 580] this Court held that the purpose for which acquisition is made is also a relevant factor for determining the market value.”

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6.3. Applying the law laid down by this Court in the aforesaid decision to the facts of the case on hand and when the acquisition is solely for the purpose of excavation of coal and the entire land is acquired on the basis of the estimates of the coal reserve identified and the entire land is to be mined and used and no further developmental activity is required, we are of the opinion that in the facts and circumstances of the case, the High Court has erred in deducting 1/3rd towards the developmental activities. The additional amount awarded by the High Court at Rs.10,000/- per acre on account of coal deposits is not required to be interfered with more particularly when the same has been confirmed by this Court in as much as the appeals preferred by the respondents have been dismissed by this Court.

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7. In view of the above and for the reason stated above, present appeals succeed in part. It is held that the original claimants shall be entitled to the compensation for the lands acquired at Rs.1,23,000/- per acre with other statutory benefits which may be available under the provisions of the Act, 1894. In addition, the original claimants shall also be entitled to Rs.10,000/- per acre as awarded by the High Court on account of coal deposits.

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The impugned common judgment and order passed by the High Court is hereby modified to the aforesaid extent.

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Present appeals are partly allowed to the aforesaid extent. However, in the facts and circumstances of the case there shall be no order as to costs.