

## **K. Krishna Reddy And Ors vs Special Dy. Collector, Land ... on 8 September, 1988**

**Equivalent citations: 1988 AIR 2123, 1988 SCR SUPL. (2) 853, AIR 1988 SUPREME COURT 2123, (1988) 3 JT 590 (SC), 1988 3 JT 590, (1988) 2 APLJ 67, 1988 (4) SCC 163**

**Author: K.J. Shetty**

**Bench: K.J. Shetty, G.L. Oza**

PETITIONER:

K. KRISHNA REDDY AND ORS.

Vs.

RESPONDENT:

SPECIAL DY. COLLECTOR, LAND ACQUISITION UNIT II, LMD KARIMNAG

DATE OF JUDGMENT 08/09/1988

BENCH:

SHETTY, K.J. (J)

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SHETTY, K.J. (J)

OZA, G.L. (J)

CITATION:

1988 AIR 2123

1988 SCR Supl. (2) 853

1988 SCC (4) 163

JT 1988 (3) 590

1988 SCALE (2) 577

ACT:

Land Acquisition Act, 1894, ss. 4(1) and 18--Award and payment of compensation--To be made without delay--Appellate power of remand--When to be exercised

HEADNOTE:

The appellants were awarded by the Land Acquisition Officer compensation ranging from Rs.1,320 to 4,000 per acre depending upon the nature of the land acquired in 1977. The District Judge enhanced the compensation to Rs.85,000 per acre on the ground that compensation @ Rs.85,000 per acre under Award Ex. A.4 and Rs.70,000 under Award Ex. A.5 had already been awarded in respect of acquisition of certain other similar lands situated in Karimnagar. However, the

High Court, in appeal, remanded the matter for fresh disposal and also observed that the District Judge should exclude Ex. A.4 and Ex. A. 5 from consideration as the land concerned in those awards are not comparable lands.

In appeals to this Court by Special Leave, it was contended on behalf of the appellants that the matter should not be remanded to the District Judge, since the claimants being small holders and agriculturists, are hard pressed and unable to fight another round of litigation and that they are prepared to accept any compensation which this Court may think fit to award.

Allowing the appeals,

HELD: (1) The Judgments of the High Court and the District Judge are set aside. The compensation at the rate of Rs.25,000 per acre regardless of categorisation would be sufficient to meet the ends of justice. It is needless to state that the claimants are entitled to mandatory solatium at 30% and also statutory interest. [857G-H]

2(i) It is of utmost importance that the award should be made without delay. The enhanced compensation must be determined without loss of time. [857C]

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2(ii) The appellate power of remand at any rate ought not to be exercised lightly. It shall not be resorted to unless the award is wholly unintelligible. It shall not be exercised unless there is total lack of evidence. If remand is imperative, and if the claim for enhanced compensation is tenable, it would be proper for the appellate court to do modest best to mitigate hardships. The appellate court may direct some interim payment to claimants subject to adjustment in the eventual award. [857C-D]

3. This is not a case of no evidence. This is a case of both relevant and irrelevant evidence mixed up together. Therefore irrelevant and exaggerated claim must be excluded. [857F]

In the instant case, the location of lands will have to be borne in mind while ascertaining the market value. The Commissioner has stated that the lands are more suitable for house sites than for agriculture. There is, no reason to discard this evidence and reject Ex. A. 5 altogether. [856C-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 3159- 3170 of 1988.

From the Judgment and Order dated 30.12.1985 of the Andhra Pradesh High Court in Appeal No. 2578 to 2583 of 1985.

K. Rajendra Chowdhary and A. Subba Rao for the Appellants.

P.A. Choudhary, T.V.S.N. Chari, Mrs. Sunita Rao, Badrinath and K. Ram Kumar for the Respondent. The Judgment of the Court was delivered by JAGANNATHA SHETTY, J. We grant Special Leave and proceed to dispose of these appeals.

These appeals are from a judgment dated 30 December, 1985 of the High Court of Andhra Pradesh in a batch of appeals arising out of land acquisition proceedings. The lands in question are situated in Hasanapur of Karimnagar Taluk. The lands are acquired for the purpose of submergence under Lower Manair Dam Reservoir project. Section 4(1) notification was issued on 24 March, 1977. The land acquisition officer by his award dated 15 July, 1978 awarded compensation ranging from Rs.1320 to 4,000 per acre depending upon the nature of the land and the crop grown PG NO 855 thereon. The District Judge on a reference under s. 18 of the Act enhanced the compensation to Rs.85,000 per acre regardless of categorisation. The High Court by the Judgment under appeals herein has remanded the matter for fresh disposal with liberty for both parties to adduce additional evidence. The high Court has specifically observed that the District Judge should exclude Ex. A. 4 and Ex. A. 5 from consideration. Ex. A. 4 and Ex. A. 5 are the awards pertaining to acquisition of certain lands situated in Karimnagar. Thereunder, compensation at the rate of Rs. 85,000 per acre under Ex. A.4 and Rs.70,000 under Ex. A.5 were given. The High Court has observed that the lands concerned in those awards are not comparable lands. Hence these appeals.

The first question that arises for consideration is whether Ex. A.5 should be altogether excluded or it should be kept open for being considered by the District Judge on merits. This is the specific question on which this Court issued notice on the Special Leave petition. If first part of the question is answered in the negative, then the second question for consideration is whether the matter should go back to District Judge for fresh disposal. We heard counsel on both sides on the merits of the entire matter.

The claimants have alleged that the lands acquired are fit for residential houses as they are adjacent to industrial estate. MARKFED factory, Vanaspathi complex, diary farm and Padmanagar colony. The lands have potentiality of being used as house sites and the like of which was sold for Rs.5,000 per gunta prior to the present acquisition. The lands are near to Karimnagar town The town is developing into a modern town in Andhra Pradesh, with a lot of industrial, commercial, educational activities. They have claimed compensation at Rs.1,60,000 per acre for dry lands and a little more for wet lands.

The evidence in support of their claim consists of the testimony of one of the claimants (PW 1). He has given a rosy picture of the location and value of the lands. Another witness (PW 2) has corroborated the version of PW 1. Besides we have the evidence of a Commissioner. Mr. G. Santosh Reddy Advocate was appointed as Commissioner in this case. He has filed his report Ex. A.7 and Plan.

PG NO 856 The High Court appears to have brushed aside all that evidence. The High Court compared the combined map of karimnagar and Hasnapur village (Ex. A.3) with the sketch map

(Ex. A.8) prepared by the Commissioner. The High Court was of opinion that the lands concerned in Ex.A.5 are abutting Karimnagar town. They are close to MARKFED and other industrial institutions and buildings, but not the lands in question. The High Court said: "whereas admittedly the lands in question are 3 kms from Karimnagar town". This statement has been seriously disputed before us. It is said that the claimants or their counsel did not admit, and indeed could not have made that admission suicidal to their case.

Be that as it may, the distance determined by the High Court whether on admission or by comparison of village maps makes little difference. The distance from Karimnagar town should not be a ground to reject Ex. A.5. If the lands are suitable for house sites, Ex. A.5 would still be relevant. The location of lands will have to be borne in mind while ascertaining the market value.

As to the nature of lands we have the evidence of the Commissioner. He is an Advocate of the local Bar. He had gone to the spot. He had a topographic surveying. According to his evidence, the lands in question are similar in nature and of value as the lands covered under the Award Ex. A.5. The lands are nearer to collectorate complex, RTC Bus stand and other housing complex. He has stated that the lands are more suitable for house sites than for agriculture. There is no reason to discard this evidence. We cannot therefore, reject Ex. A.5 altogether.

The next question for consideration is whether it is now necessary to keep the remand order undisturbed. Counsel for the claimants ' is totally against the matter being sent back to the District Judge. He urged that the claimants are small holders and agriculturists. they are hard pressed and unable to fight another round of litigation. I hey are prepared to accept any compensation which this Court may think fit to award. This plea of the counsel has an appealing simplicity. It reflects the facts of life and problems of litigation.

We can very well appreciate the anxiety and need of claimants to get compensation here and now. No matter what it is. The lands were acquired as far back in 1977. One decade has already passed. Now the remand means another round of litigation. There would be further delay in getting the compensation. After all money is what money PG NO 857 buys. What the claimants could have bought with the compensation in 1977 cannot do in 1988. Perhaps, not even one half of it. It is a common experience that the purchasing power of rupee is dwindling. With rising inflation, the delayed payment may, lose all charm and utility of the compensation. In some cases, the delay may be detrimental to the interests of claimants. The Indian agriculturists generally have no avocation. They totally depend upon land. If uprooted, they will find themselves nowhere. They are left high and dry. They have no savings to draw. They have nothing to fall back upon. They know no other work. They may even face starvation unless rehabilitated. In all such cases, it is of utmost importance that the award should be made without delay. The enhanced compensation must be determined with-out loss of time. The appellate power of remand, at any rate ought not to be exercised lightly. It shall not be resorted to unless the award is wholly unintelligible. It shall not be exercised unless there is total lack of evidence. If remand is imperative, and if the claim for enhance I compensation is tenable, it would be proper for the appellate court to do modest best to mitigate hardships. The appellate court may direct some interim payment to claimants subject t o adjustment in the eventual award.

Counsel for the State argued that there is no material on record for this Court to determine compensation and the remand may be useful for the claimants themselves. He however, reluctantly indicated his own estimate of the market value in the event of this Court giving a quietus to the litigation.

It seems to us that this is not a case of no evidence. This is a case of both relevant and irrelevant evidence mixed up together. We must exclude the irrelevant and exaggerated claim. The claimants have not justified the award generously given by the District Judge. Rs. 85,000 per acre appears to be on the high side as against the award Ex. A.5. In the first place, Section 4 notification concerned in that Award was dated 16 February 1978. It was almost a year after the notification in these cases. Secondly, the lands therein were close to the town of Karimrtagar. The situation is not similar in this case. Here the lands are 3 kms away from Karimnagar town. It is in this background I we have carefully considered the rough estimates given by counsel on both sides. We have also examined the relevant material. A distance of 3 kms from a growing town of District headquarters should not however, make a world of difference. We are of opinion that the compensation at the rate of Rs.25,000 per acre regardless of categorisation would be sufficient to meet the ends of justice. It is needless to state that the claimants are entitled to mandatory solatium PG NO 858 at 30 per cent and also statutory interest. In the result, we allow these appeals and set aside the judgments of the High Court and District Judge. There shall be an award in terms as indicated above. In the circumstances of the case, we make no order as to costs.

M.L.A.

Appeals allowed.