

PETITIONER:
G. NARAYAN RAO

Vs.

RESPONDENT:
THE LAND ACQUISITION OFFICER

DATE OF JUDGMENT: 15/07/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
JT 1996 (6) 721 1996 SCALE (5)476

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

The petitioner questions the correctness of the judgment and order dated August 30, 1995 made in Appeal No.6/87 by the Division Bench of Andhra Pradesh High Court. Hyderabad, Petitioner's land in an extent of 7 acres 25 guntas situated in Nizamabad town was acquired by the Government to provide house sites to the poor by publication of the notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act'). On September 22, 1976, the petitioner claimed compensation @ Rs.300/- per sq. yd. The Land Acquisition Officer awarded @ Rs.30,000/- per acre. On reference, the Additional District Judge, Nizamabad had enhanced the compensation at Rs.63/- per sq. yd. and after deducting 1/3 for development charges awarded Rs.46/- per sq. yd. by his award and decree dated June 25, 1986. The High Court reversed the decree and awarded compensation @ Rs.32,000/- per acre with additional benefits under Amendment Act 68 of 1984. Shri Prakash Reddy in his usual thorough preparation and vehemence contended that the Division Bench was not right in refusing to remit the matter to the Court for fresh trial. As per the law then existing, it was not necessary for landlord to examine the witnesses connected with the sale deeds Exhibit A-21 and A-22 relied on and accepted by reference Court which were proximate to the point of time and adjacent to the land offering comparable rate to award compensation. He also contended that the lands are possessed of potential value as building sites since they are situated in the municipal limits of Nizamabad. The potential value should be considered and market value determined on that basis. He further contended that the Land Acquisition Officer had himself admitted in his evidence that a small sale deed to an extent of 200 sq. yd. sold to statutory bodies had secured a rate worked out at Rs.47/- per sq. yd. That would provide basis to determine the market value after due deduction. At any rate, as requested for in the High Court, the High Court would have

remitted the matter for decision afresh. Having given our due consideration to the forceful contentions of the counsel, we find no merit in any one of the contentions.

It is seen that, admittedly, neither the vendor nor the vendee of the sale deeds, Exhibit A-21 and A-22 was examined. It is settled law from the decisions of this Court starting from *The Collector, Raigarh vs. Dr. Harisingh Thakur and Anr.* [AIR 1979 SC 472] and that of the A.P. High Court in *The Tehsildar, Land Acquisition Vishakhapatnam vs. Shri P. Narsingh Rao & Ors.* [(1985) 1 APLJ 99] that either the vendor or the vendee should be examined in proof of the documents to establish passing or the real consideration under the documents, the nature of the respective lands and whether the documents are genuine documents etc. It is for the Court to consider all the relevant facts to accept the correctness of the sale deeds and then consider whether they should form basis to determine compensation. In the absence of proof of above facts that would be no evidence for the Court to place reliance on untested documents. The reference Court, therefore, was clearly in error in acting upon the untested sale deeds to determine the compensation @ Rs.46/- per sq. yd. after due deduction.

The High Court elaborately considered the nature of the lands situation in the developed area to find out whether the lands were possessed of potential value. It was held that the lay out sanction was obtained three years after publication of the notification under Section 4(1) of the Act. There was no development in the neighbourhood. It must be established, as a fact, that the potential purpose does exist as on the date of the notification, the prevailing conditions in the market the existence of the construction of building activities in the neighbourhood and that other lands in the neighbourhood possessed similar conditions. The High Court relied on recent judgments of this Court in *Acquisition Officer, Eluru & Ors. vs. Smt. Jasti Rohini and Anr.* [(1995) 1 SCC 717] and *P. Ram Reddy & Ors. vs. Land Acquisition Officer Hyderabad Urban Development Authority Hyderabad & Ors.* [(1995) 2 SCC 305] etc. It is settled law that the Court in determining the compensation should sit in the armed chair of a willing vendee and determine whether in the given facts and circumstances he would be willing, depending upon the prevailing market conditions, to offer the rates which the Court proposes to determine as a prudent purchaser. In case of approved layout, it is equally settled law that layout was obtained in normal course or business venture. The Court must consider the suitability of the acquired land for putting up the buildings for residential, commercial or industrial buildings which have already come up in the neighbourhood and also the possibility to obtain amenities like water, drainage, electricity supply etc. Absence of statutory impediments like obtaining sanction for layout would be yet another relevant circumstance. On taking all material and relevant facts into consideration, the Court would consider whether the willing vendee would offer the price at which the Court proposes to determine. The determination of the compensation under those circumstances must be just and adequate. The High Court considered all these relevant circumstances and held that the lands are not possessed of potential values as on the date of the notification to determine the compensation on yardage basis. It is not in dispute that in a related acquisition in O.P.361/77, the Court determined the compensation @ Rs.32,000/- per acre for the lands in the neighbourhood based upon it the High Court confirmed as under:

"Keeping that in view, as a result

of the above discussion we have to hold that the award in O.P. No.361 of 1977 relied on by the Land Acquisition Officer furnishes a proper 'price basis' for arriving at the market value of the land in question at the relevant time. The learned counsel on both sides accept that the said award was not questioned and it became final. But we have to notice that the Land Acquisition Officer himself proposed to fix the market value of the land in question at Rs.32,000/- per acre in view of the fact that the land covered by O.P. No. 361 of 1977 was further away from the developed localities than the land under the present acquisition. This is borne out by the Master Plan Ex.B.19 and Ex.B.26, which is the relevant portion of the Master Plan though both the lands were located in undeveloped area at the relevant time and were similarly situated from the point of view of potentialities, Land covered by O.P. No.361 of 1971 is about one furlong away and further to the north of the present land. We are, therefore, inclined to take the view that the market value of the land in question should be fixed at Rs.32,000/- per acre."

Accordingly, the High Court determined the compensation @ Rs.32,000/- per acre.

It would appear that the Land Acquisition Officer stated in his evidence that the land of an extent of 200 square yards was sold to a public authority at a rate worked out at Rs.47/- per sq.yd. But, as rightly pointed out by the High Court, the said document was not made part of the record nor anyone was examined in proof of the circumstances in which sale came to be made. Under these circumstances, the High Court rightly was not inclined to accept that part of the evidence to determine compensation in this case. We do not find any error of any principle of law committed by the High Court warranting interference.

The special leave petition is accordingly dismissed.