

IN THE COURT OF THE FIRST ADDITIONAL JUDGE
CITY CIVIL COURT AT HYDERABAD A.P.

Present :

Sri K. V. Raghava Rao, B. Sc. B. L.,
1st Addl. Judge,
City Civil Court, Hyderabad.

Friday the 7th day of March 1975.

O. P. No. 250 of 1971.

Between :

Venkata Rama Rao.

... Claimant.

And

Spl. Deputy Collector.
Land Acquisition, Hyderabad.

... Respondent.

This petition coming before me for final disposal on this 26th day of February 1975, in the presence of Sri Raghavender Rao, Advocate for the claimant and of Sri N. Satyanarayana, standing counsel for respondent, and the matter having stood over to this day for consideration, this court delivered the following :

ORDER

1. This is a reference under Sec. 18 of the Land Acquisition Act as the claimant is not satisfied with the adequacy of compensation awarded by the respondent for his 39 Guntas of land in S. No. 19 of Mallapur village.

2. The averments in the claim petition are as follows. Out of a total extent of 11 acres 30 guntas of land in S. No. 19 of Mallapur the Government acquired 39 guntas of land and took possession of the same on 13-3-68. The land was acquired for laying a road. The land is situated in the midst of industries and is suitable for building houses and raising industries. The Andhra Foundary is 1 furlong and the Industrial area of Nacharam is adjacent to the land acquired. Atomic Energy Cable factory and Nuclear Fuel Complex within radius of 1 furlong. Railway shed is 1/2 furlong and the road laid thro the land was to the Atomic Energy Plant and N.F.C. There are several other factories within a radius of half a mile. There are amenities like Electricity, Telephone and water supply to the land. Transport by rail and road is also available. Land adjacent to the acquired lands were sold at Rs. 3-50 per sq. yard in 1967. The Land Acquisition Officer awarded compensation at Rs. 150/- per acre which is inadequate. The land in S. No. 177/1 was divided into plots and the plots were sold at the rate of Rs. 3-50 and Rs. 4-00 per square yard. The Land Acquisition Officer having found that the prevailing market rate was Rs. 4,058/- per acre, has not accepted the same. He has also rejected the same. He has also rejected the rates disclosed by the extracts of sale obtained from the registration on the place that they were either they were low or high. He wrongly rejected on the ground that they were sold for non-agricultural purpose. The petitioner is entitled to compensation at Rs. 5/- per square yard with solatium for compulsory acquisition and interest at 4% per annum.

3. The Land Acquisition Officer filed a counter contending that the value claimed by the petitioner is baseless and imaginary and the compensation Officer was adequate and reasonable.

4. My Learned Predecessor settled the following issues for consideration.

1. Whether the compensation paid by the Land Acquisition Officer is inadequate ?
2. Whether the claimant is entitled for enhanced compensation.
3. To what relief ?

5. Points 1 and 2 :-

Out of a total extent of 11 acres 30 guntas of land in S. No. 19 of Mallapur belonging to the petitioner, 39 guntas of land along with several other lands was acquired by the Government for laying a road across the lands to have access to the industries Hirdustan Cable, E. C.I. Ltd. N.F.C. from the side of Moula Ali. Notification under Sec. 4 (i) of the Land Acquisition Act was published in the A. P. Gazette dated 4-12-66. Possession of the land

was taken over on 13-3-68. The Land Acquisition Officer fixed the market value Rs. 1500/- per acre. He also provided 15% solatium for compulsory acquisition and interest at 4% per annum from 13-3-68 till the date of payment. The petitioner was thus paid a total sum of Rs. 1,853-41 paise. The petitioner was not satisfied with the compensation awarded to him and he has therefore sought for reference under Sec. 18 of the Land Acquisition Act. Copy of the award given by the Land Acquisition Officer is Ex. B-1. The Land Acquisition Officer has taken into consideration the sale of land covered by the original of Ex B-2 whereunder Muttaiah sold 29 acres 37 guntas of land in S. Nos. 159 to 162 of Mallapur to Pentiah for Rs. 40,000/-. The rate works out at Rs. 1,336-00 per acre. Ex. B-3 is a sketch showing Mallapur village and the situation of the petitioner's land acquired by the Government which is the north at a distance of about 2 furlongs and the land covered by Ex B-2 which is about 5 furlongs to the south of the village. The petitioner claimed for fixation of the market value on the date of notification under Sec. 4 of the Land Acquisition Act. at Rs. 5/- per square yard on the ground that the land is situated in the midst of industries with potentialities of being used as building site in the course of time.

6. The claimant as PW-2 deposed that his land is better than the lands in Mirpet, Kapra and Cherlapalli, that is useful for construction of houses with facilities of Electricity, water supply, drainage and road, that E. C. I. Ltd, Nuclear Fuel Complex, Hindustan Cables, Moula Ali Industrial area, Cherlapally Industrial area, Macharam Industrial area, Andhra Foundry, Maruthi Steel, Auto Tractors and other big industries are near his land, that Marshalling Yard is about 1/2 furlong from his land and Moula Ali Station is about 4 furlongs. According to him Meerpet is about 5 Kilo metres from Secunderabad. He filed certain plans prepared by him. Ex. A-8 is a plan of Mallapur and Mirpet villages. Ex. A-11 is a plan of Cherlapalli village. Ex. A-9 is a map comprising of the villages, Mallapur, Merpet and Cherla Palli. Ex. A-10 is a plan showing the acquired land and other lands in the vicinity. PW-2 admitted that he prepared the plans and that they are not certified copies. Sri R. Veeraiah (PW-4) stated that the petitioner's land is fit for house site, that industries are near by and that there are facilities of Electricity, Telephone and City buses etc. But he admitted that the land was agricultural land at the time of acquisition. Sri M. Badraiah (PW-5) admitted that the petitioner's land was acquired for the purpose of laying a road and that there was no other road near his land, but at another stage he stated that there is another road leading from R. R. Labs to Nuclear Fuel Complex through Mallapur which is about 1 furlong from the petitioner's land. Sri G. Hanumanth Rao the then Land Acquisition Officer as RW-1 stated that Moula Ali Railway Station is about 1 mile from the petitioner's land. According to him there is a road running through S. N. 191/1 at a distance of one furlong from the petitioner's land. The facilities like Telephone Electricity and water have become available according to RW-1 subsequent to the acquisition. It is clear from the evidence that the petitioner's land acquired by the Government is about 2 furlongs to the north of Mallapur village beyond the railway track and there was no road adjacent to the petitioner's land in S. No. 19 before part of it was acquired for the purpose of laying a road to have access to the industries situated to the north of the acquired land from the side of Moula Ali. There is another road leading from R. R. Labs to N. F. C. running through the village Mallapur and that road is about 1 furlong from the petitioner's land. The petitioner's land at the time of acquisition was a dry land. Moula Ali Railway Station is about 1 mile from the petitioner's land. According to RW-1 the amenities like Electricity, Water supply etc. have become available near the acquired land after the acquisition of the petitioner's land.

7. The petitioner relied on some sales of sites made in Mirpet in support of his case. Kotla Achamma sold 350 sq. yards of site in S. Nos. 36 to 38 of Mirpet to Ramaiah under the original of Ex A-1 on 29-9-66 for Rs. 1500/- PW-4 deposed that he purchased 300 sq. yards of site in S. No. 7 of Meerpet for Rs. 2000/- from Mallaiah under the original of Ex. A-3 on 11-8-66. PW-2 stated that Exs. A-6 and A-7 are the registration extracts of sale deeds to show sales of sites made in Mirpet. Ex. A-6 is a registration extract of a sale deed dated 30-5-66 whereunder 297.5 sq. yards of sites in S. No.

44 was sold for Rs. 1338-75 paise. Ex. A-7 is a registration extract of a sale deed dated 21-7-66 whereunder 300 sq. yards of site in S. No. 7 was sold for Rs. 2000/-. The sites covered by Exs. A-1, A-3A-6 & A-7 are small bits of house site Mirpet. The rate at which the sites were sold works out ranging from Rs. 4-20 paise to Rs. 6-75 paise per square yard. Small bits of sites intended for construction of houses which have access from road and which are nearer to the residential localities fetch fairly good price and they cannot be taken into consideration in assessing the market value of the land of petitioner which is far away from the village proper and which was only under cultivation at the time acquisition. If the land gains importance by reason of laying the road across the land consequent upon the acquisition, it cannot be consideration in assessing the value of the land. It is significant to note that the industries to the north of the petitioner's land in Mallapur Kapra and Cherlapalli villages have come up at about the time of acquisition and the road was laid to have access to those industries from the side of Moula Ali. P. W2 deposed that he and his brother sold 358 sq. yards of site in S. No. 177/1 and 179 for Rs. 1432/- to D Rama Murthy. It works out roughly at Rs. 4/- per square yards. Registration extract of the sale deed is Ex. A2 and it is dated 23-12-66. It is a post notification sale. The Learned Advocate for the petitioner contended that the sale deed not be ignored simply because it was made subsequent to the notification. He relied on "The Divisional Officer & Land Acquisition Officer Kakinada vs. Pydah Suryanarayana Murthy and another (1)" where it was held that post notification sale need not be ignored altogether and can be taken into consideration for the purpose of fixing the market value of the land under acquisition. The site covered by Ex. A2 was admittedly sold for construction of houses. It is close to the village Mallapur and also situated by the side of the road leading from Hyderabad to the industries to the north of the acquired land. It has therefore no relevance in assessing the market value of the acquired land.

8. Ch. Manohar Rao (PW-3) stated that his land in S. Nos. 242 to 253 of Cherlapalli was acquired and that on a reference to the court he was awarded a compensation at Rs. 2/- per sq. yard and that Ex. A-4 is the certified copy of the order. It is a common order passed in OP Nos. 62, 63, 71 & 72 of 73 in respect of the lands in Cherlapalli aqd. for indsl. purpose. The land were acquired in pursuance of a notification dated 17-11-66 & those land are shown by the petitioner in yellow colour in the plan Ex. A-10. They are far away to the petitioner's land. The plan Ex. A-10 is shown to have been drawn to the scale of 1 inch to 1 furlong. In that case the land covered by the order Ex. A4 are more than 1 mile away from the petitioner's land. The evidence of PW3 that his lands are half furlong from the petitioner's land is false. PW-3 admitted that rate have started increasing for the land in the locality with the setting up of industries and acquisition of the lands by the Govt. He also admitted that by the dt. of acquisition there were no residential houses in the locality & the petitioner's land was suitable for cultivation and not as house sites Ex. A5 is a certified copy of the order in OPs. 190 to 194 of 1970 on the file of the Chief Judge City Civil Court, Hyderabad. It relates to a reference under Sec. 18 of the Land Acquisition Act in respect of the lands of kapra village which were acquired by the Government in pursuance of notification dated 17-11-66. The learned judge fixed the market value of the lands at Rs. 3/- per square yard. They are also acquired for industrial purpose and are adjacent to the lands covered by the Ex. A-4. There is road leading from Hyd'bad to these areas. I have already shown that there was no road close to the petitioner's land before part of lands was acquired in pursuance of the notification dated 4-12-66. The land covered by Ex. A-5 are also more than a mile from the petitioner's land. The considerations that prevailed on the learned judges in fixing the market value for the lands covered by Exs. A-4 and A-5 have therefore no relevance in assessing the market value of the petitioners and on the date of notification. M. Bhadracharya (PW-5) deposed that his land in S. Nos. 7, 8, 12 and 14 of Mallapur to an extent of 2 acres 16 guntas were acquired by the Government for laying a road and that the compensation was fixed at Rs. 5/- per square yard on a reference under section of the Land Acquisition Act in OP 384/72 on the file of the Chief Judge City Civil Court, Hyderabad. Certified copy of the order is Ex. A-12. PW-5 admitted that the petitioner's land is not adjacent to his land. His lands are wet land and superior in quality than the land of the petitioner as admitted by him. It can be

from Ex A-10 that the lands in S. Nos. 7, 8 are adjacent to the lands in S. Nos. 36 to 38 of Mirpet which were sold under the original of Ex A-1 at Rs. 4-50 paise per square yard. The petitioner cannot compare his lands with the lands covered by Ex A-12. PW-2 admitted that he does not whether any sales of lands were made towards the end of 1965 or in the beginning of 1966 in the locality.

9. PW-2 stated that his land is Chelka land and it has no source of irrigation. He stated that he used to raise green gram, sun flower and gingeli and caster and that he used to get a net income of about Rs. 4000/- on his 11 acres 30 guntas of land. He admitted that it was assessed as dry land, but he stated that he cannot say what land revenue he was paying. He was not filed any extracts from pahani to show the crops he was raising in the land. PW-4 stated that the land of the petitioner was agricultural land at the time of acquisition. RW-1 stated that the land was not under cultivation and it was left as kancha and grass only was growing in it. The Learned Advocate for the petitioner contended that compensation has to be determined not merely with the reference to the use to which the land was put at the time of acquisition, but the potentialities of the land have to be taken into account in fixing the market value. He relied on "The special Tahsildar, Land Acquisition Andhra Paper Mills, Rajahmundry vs. Satyavolu Sreekrishna Venkata Subramanyam" (2) wherein it was held that :

"The Courts awarding compensation under the Act, have to ascertain the market value of the acquired land on the date of notification under Section 4 (1) of the Act. The Compensation has to be determined by reference to the price which a willing vendor might at reasonably expect to obtain from a willing purchaser. It is not merely the use to which the land is being put at the relevant time but the uses to which it is reasonably capable of being put in the future that should be taken as a guide in fixing the proper price, it is the potentialities and possibilities of the acquired land but not its realised possibilities that should be taken into account in determining the value of the land acquired".

(2) 1970 A. P. Law Journal ; 108 (Short notes)

The acquired land was not even under cultivation though it was assessed as dry land and it has no source of irrigation. If the land has to be valued on that basis the market value fixed by the Land Acquisition Officer on the date of notification at Rs. 1500/- per acre is adequate. But it is clear from the evidence that the area to the north of the petitioner's land in Mallapur, Kapram & Cherlapalli, though at a distance have developed into industrial areas. The petitioner's land may not have the potentialities of being used as industrial area for the reason that the extent of land available at that particular place is comparatively small as can be seen from Ex A-10. However it cannot be said that the land has potential value of being used for non-agricultural purpose. The Land Acquisition Officer in his award mentioned that he gathered statistics from the Registration Department of the sales made round about the acquired lands during the years 1965 and 1966. He mentioned that the lands were sold in 1965 at prices varying from Rs. 210/- per acre to Rs. 4,058/- per acre and that in the year 1966 the lands were sold at prices ranging from Rs. 300/- to Rs. 3000/- per acre. It is gathered from the award that 11 Acres 4 guntas of land in S. No. 99 was sold for non-agricultural purpose at Rs. 3000/- per acre. It can be seen from Ex A-10 that the land in S. No. 99 is to the east of the village Mallapur. The Land Acquisition Officer rejected to take into consideration this sale on the ground that it was high and it was sold for non-agricultural purpose. He took into consideration the sale covered by Ex B-2 of the lands in S. Nos. 159 to 162 which are about 5 furlongs to the south of the village. The rate at which the lands were sold as can be seen from Ex A-2 is about Rs. 1336/- per acre. I do not see any justification in his not taking into account the sale of the land in S. No. 99. Though he also referred that there was a sale in 1965 which worked out at Rs. 405/- per acre, it is not known in which survey number the land is and how far it is from the petitioner's land. When the petitioner has not taken care to adduce evidence in relation to this sale, it cannot be taken into consideration for the purpose of assessing the market value of the petitioner's land. I therefore hold on a consideration of the entire

evidence that it is reasonable to fix the market value of the petitioner's land on the date of acquisition at Rs. 300/- per acre. The Land Acquisition Officer has already fixed the market value at Rs. 1500/- per acre. The petitioner will therefore be entitled to an enhancement of Rs. 1462/50 paise. He will also be entitled to 15 percent solatium for compulsory acquisition and interest at 4 percent per annum from 4-12-66 the date of notification. I find issue No. 2 accordingly. I find on issue No. 1 that the compensation awarded by the Land Acquisition Officer is inadequate.

10. Issue No. 3. The petitioner will be entitled to Rs. 1462-50 paise solatium at 15 percent thereof for compulsory acquisition and interest at 4 percent per annum on the aggregate thereof from 13-3-68 till the date of recovery. The petitioner will also be entitled to costs of this reference. The reference is accordingly answered.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in open court on this 7th day of March 1975.

(Signed) x x x
First Additional Judge,
City Civil Court, Hyderabad.

APPENDIX OF EVIDENCE WITNESSES EXAMINED

For Claimant :—

- P. W. 1 S. Rajayya.
- P. W. 2 Venkata Rama Rao.
- P. W. 3 Ch. Manohar Rao.
- P. W. 4 R. Veeraiah.
- P. W. 5 M. Bhadraiah.

For Respondent :—

- D. W. 1 G. Harikanth Rao.

DOCUMENTS MARKED

For Claimant :—

- Ex. A-1 29-9 -66 Certified extract of sale deed executed by Potla Eachamma in favour of R. Ramaiah.
- Ex. A-2 23-12-66 Certified extract of sale deed executed by Chandra Bai & others in favour of D. Ram Murthy.
- Ex. A-3 11-8 -66 Certified extract of sale deed executed by B. Malliah in favour of R. Veeraiah.
- Ex. A-4 27-9 -73 Certified copy of order in O.P. 62/72 on the file of Addl. Chief Judge City Civil Court, Hyderabad.
- Ex. A-5 12-7 -71 Certified copy of order in O.P. 190 and 191 of 1970 on the file of Chief Judge, City Civil Court, Hyderabad.
- Ex. A-6 30-5 -66 Certified extract of sale deed executed by V. Venkata Rao in favour of Surya Prakash Rao.
- Ex. A-7 21-7 -66 Certified extract of sale deed executed by B. Balamani in favour of K. Maniamma.
- Ex. A-8 — Blue Print plan.
- Ex. A-9 — Plan of Mallapur village.
- Ex. A-10 — Map of Charlapalley village showing the land acquired.
- Ex. A-11 — Blue print plan of Cherlapalley village.
- Ex. A-12 11-3 -74 Certified copy of order in O.P. 384/72 on the file of the Chief Judge, C. C. C. Hyderabad.

DOCUMENTS MARKED

For Respondent :—

- Ex. B-1 2 -11-70 Copy of Award in respect of S. No. 19 (part) of Mallapur village, with the proceedings.
- Ex. B-2 28-8 -65 Certified extract of sale deed executed by M. Muthaiah in favour of M. Pentaiah.
- Ex. B-3 — Topo sketch of village Mallapur.

(Signed) x x x
First Additional Judge,
City Civil Court, Hyderabad.

MEMO OF COSTS

For Claimant :

Stamp on Petn.	Rs. —
do on vakalat	Rs. 2-00
Pleader's fee.	Rs. 200-00
(M. C. not filed,	

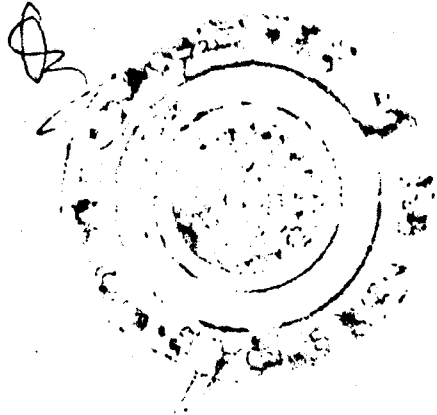
Total.....Rs. 202-00

For Respondents:/R.O.

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1085-00

Rs. 1085-00

(Signed) x x x
First Additional Judge,
City Civil Court, Hyderabad.
(Certified to be True Copy)



Suprintendent,
Central Copyist Establishment,
City Civil Court, Hyderabad-20-6-74

CECA 10/77.
Mr. Rajaramballe

C. A. No. :-2282/75

Sri.....
Advocate

IN THE COURT OF THE
FIRST ADDITIONAL JUDGE,
CITY CIVIL COURT, HYDERABAD

O. S. No. :-250 of 1971

J U D G M E N T

No. of Words.....Rs.

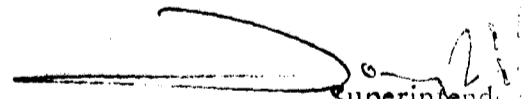
Application made on.....

Charges Called for on.....

Charges Deposited on.....

Copy Ready on.....

Copy delivered on.....


Superintendent
Central Copyist Establishment
City Civil Court, Hyderabad


EXAMINER