

CASE NO.:
Special Leave Petition (civil) 11815-18 of 2000

PETITIONER:
KOPPATHI VENKATI & ORS.

Vs.

RESPONDENT:
LAND ACQUISITION OFFICER & ANR.

DATE OF JUDGMENT: 07/02/2002

BENCH:
N. Santosh Hegde & Doraiswamy Raju

JUDGMENT:

SANTOSH HEGDE, J.

Leave granted.

The appellants in these appeals challenge the judgment of the High Court of Judicature of Andhra Pradesh at Hyderabad, dated 23.11.1999 whereby their appeals filed against the judgment of the Subordinate Judge, Asifabad, made in O.P. No.53 of 1991 dated 15.2.1996 came to be rejected. It is the case of the appellants that they are the owners of various survey numbers which came to be acquired under Section 4(1) of the Land Acquisition Act by a Notification dated 16.3.1984. It is stated that as per this acquisition notification, large areas of land measuring approximately 140 acres came to be acquired for the benefit of Singareni Collieries. The Land Acquisition Officer had granted a compensation of Rs.26,680/- per acre as the market value out of which after deducting one-third of the said value towards development, fixed the net market value of the land at Rs.17,787/- per acre. It is the case of the appellants that one of the claimants owning Survey No.85 out of the group of lands acquired was awarded a sum of Rs.1,14,000/- per acre by the Reference Court which after deducting 31 per cent of the said value towards developmental charges, awarded him Rs.78,880/- per acre. When the said matter was taken up in appeal before the High Court in A.S. No.1180 of 1994, the High Court fixed the compensation at the net value of Rs.68,000/- per acre, and that judgment was challenged by the State of Andhra Pradesh by way of an SLP which came to be dismissed. It was also contended that the Singareni Collieries also filed an SLP with the permission of this Court which permission was granted but the SLP came to be dismissed on merit, confirming the award of Rs.68,000/- per acre.

It was thereafter contended that in this case of the appellants, the Reference Court granted Rs.75,000/- per acre as net value following its award in O.P. No.2/90 which, as stated above, was confirmed by the High Court. Against the said award of the Reference Court in the case of these appellants, the respondents herein preferred appeal before the High Court and

the High Court without agreeing to rely upon its own finding in O.P. No.2/90 held that fixation of a price in some other connected land acquisition matter cannot be treated as res judicata, and binding upon the parties. It is further contended that the High Court without even referring to Section 28-A of the Land Acquisition Act, proceeded to allow the appeal of the respondents and remanded the matter to the Reference Court for fresh consideration in the light of the observations made in the said judgment.

Mr. Ranjit Kumar, learned senior counsel appearing for the appellants, contended that assuming that the judgment in O.P. No.2/90 would not amount to res judicata as to bind the parties in the present case, certainly the same would be a piece of evidence which ought to have been taken note of by the High Court while interfering with the award of the Reference Court. He contended that there is absolutely no difference between the land involved in O.P. No.2/90. On the contrary, from the material on record as noticed by both the Land Acquisition Officer as well as the Reference Court, it is clear that the land involved in present appeal is superior and was of better value than the land involved in O.P. No.2/90, therefore, the High Court ought not to have come to the conclusion that the land in the present appeal is in any manner different from the land in O.P. No.2/90. He also contended that the principles or the objects behind enacting Section 28-A of the Land Acquisition Act have been totally lost sight of by the High Court which in the opinion of the learned counsel, would require the acquiring authority to pay compensation at the same rate for all the lands acquired under a single notification, and the High Court, according to him, has erred in not placing reliance on this Section.

Mr. Altaf Ahmed, learned Additional Solicitor General appearing for Singareni Collieries, and Mr. G. Prabhakar, learned counsel appearing for the Land Acquisition Officer, pointed out that the order of the High Court remanding the matter was of 23.11.1999 with a direction to the Reference Court to dispose of the reference case on remand within 3 months and pursuant to the said order, the Reference Court has made a fresh award on 29.2.2000 which award is not challenged by the appellants herein, consequently the same has become final. They also addressed arguments on merits.

Having noticed the fact that the judgment of the High Court has been given effect to by the Reference Court and the fresh award has come into existence which is not under challenge, we feel it not proper to interfere with the impugned order at this stage. At the same time, the appellants should not be rendered helpless in agitating their claim against the fresh award before the High Court. Hence, we think it appropriate that the appellants be permitted to file appeals against the award made by the Reference Court on remand by the High Court, as also permit them to raise all the contentions urged before us in these appeals.

Accordingly, while disposing of these appeals, we permit the appellants to challenge the awards made in pursuant to the remand by the High Court as per the impugned judgment before the appellate court, and if such appeals are filed within 30 days from today, the appellate court will entertain the same without going into the question of limitation and consider the appeal on merits, and the appellants as well as the respondents shall be at liberty to raise all the points argued in these appeals and those which are otherwise permissible for the parties to raise in such

appeal which may be filed. The appeals are disposed of in the above terms. No order as to costs.

.....J.
(N. Santosh Hegde)

February 7, 2002.J.
(Doraiswamy Raju)

JUDIS