

O. JANARDHAN REDDY AND ORS.

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v.

THE SPL. DY. COLLECTOR, L.A. UNIT-IV LMD,
KARIMNAGAR, A.P. AND ORS.

SEPTEMBER 30, 1994

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[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Land Acquisition Act 1894 :

Land Acquisition—Agricultural land with irrigation wells—Acquisition of—Compensation—Determination of market value—Held the irrigation well in an acquired agricultural land cannot have a value apart from the value of the agricultural land itself—Where compensation was enhanced on such a basis by Civil Court and High Court, grant of further enhanced by compensation—By Supreme Court—Held unwarranted.

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Several extents of agricultural lands belonging to the appellants were acquired. In some of those agricultural lands, there were irrigation wells, as well. The Land Acquisition Officer awarded separate compensation for the agricultural lands and irrigation wells. The nature of crops grown on the lands was made the basis to determine the market value of agricultural lands while estimate of the cost of construction of each irrigation well prepared by the Public Works Department was made the basis to determine the market value of irrigation wells. However, on reference, the Civil Court enhanced not only the market value of lands but also the market value of some of the irrigation wells according to the cost of construction of each of them as estimated by a retired Town Planning Supervisor, as against their market value determined by the Land Acquisition Officer on the basis of their estimates prepared by the Public Works Department and of the remaining irrigation wells by increasing their market value as determined by the Land Acquisition Officer by 75 per cent. The said award of the Civil Court was questioned by the Land Acquisition Officer in an appeal before the High Court. The market value of the agricultural lands as enhanced by the award of the Civil Court was not interfered with by the High Court. As regards market value of irrigation wells enhanced by the Civil Court, the High Court found that such enhanced market value for the wells ought not to have been given by the Civil Court on the basis of

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- A estimates of costs of wells prepared by a retired Town Planning Supervisor. Consequently, it refused to uphold the enhanced market value given for the irrigation wells by the Civil Court. Yet, on its own, the High Court enhanced the market value of the irrigation wells by 75 per cent of their market value determined by the Land Acquisition Officer finding justification for such enhancement on the basis of another award of the Civil Court wherein such enhancement for the market value of the irrigation wells had been given.

- C Being dissatisfied with the enhanced compensation granted by the High Court the land owners filed the present appeal which was restricted to the consideration of grant of enhanced compensation for their irrigation wells. It was contended on their behalf that when the Civil Court had determined the market value of the irrigation wells on the basis of estimate of cost of each well prepared by a private engineer with reference to prevailing construction cost on the basis of the data of Public Works Department and awarded compensation therefor, the High Court ought not have interfered with the compensation so awarded by the Civil Court for such irrigation wells.

Dismissing the appeal, this Court

- E HELD : 1. Since estimated construction costs of irrigation wells of agricultural lands cannot form the basis for awarding compensation for such irrigation wells independently of the compensation awardable for the agricultural lands for the benefit of which such wells existed, the appellants' claim for grant of enhanced compensation for the irrigation wells reference to estimated costs of construction of such wells prepared by engineers, do not commend acceptance. [108-B-C]

- G 2. The advantage which an agricultural land may have because of the irrigation facility it had from the irrigation well, could only enhance the value of agricultural land depending upon the water yield from the well. Again when the agricultural land, the irrigation of which was possible from the water of the irrigation well, is acquired, the value of the land so acquired will have to be determined taking into consideration the irrigation facility it had from the well. In this situation the irrigation well in an acquired agricultural land, cannot have a value apart from the value of the agricultural land itself. The Land Acquisition Officer, the Civil Court and the High Court, when they determined the market value of the

irrigation wells and awarded compensation to the owners of those wells, having determined the market value of the acquired agricultural lands on the basis of natural of crops grown in them obviously taking into consideration, the water facility they had from the irrigation wells situated, in them, they have proceeded on a misconception that the market value of the irrigation wells had to be determined according to their construction costs and compensation was payable for them under the Act independently of the compensation payable for the agricultural lands. [109-C to E]

3. As the award of compensation for the irrigation wells of the appellants by the Land Acquisition Officer, the Civil Court and the High Court was, in itself wholly unwarranted, question of granting further enhanced compensation for irrigation wells of the appellants situated in their acquired agricultural lands cannot arise. [109-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5283 of 1992.

From the Judgment and Order dated 19.6.90 of the Andhra Pradesh High Court in A. No. 2234 of 1986.

K. Madhava Reddy, D. Prakash Reddy and Vimal Dave for the Appellants.

Guntur Prabhakar and Ms. Suman Bala Rastogi (NP) for the Respondents.

The Judgment of the Court was delivered by

VENKATACHALA, J. In this appeal by special leave, directed against the Judgment and Decree dated June 19, 1990 in Appeal No. 2234 of 1986 of the High Court of Judicature, Andhra Pradesh, enhanced compensation for irrigation wells of the agricultural lands acquired under the Land Acquisition Act, 1894 - 'the Act' is claimed by the owners of those lands - the appellants.

Several extents of agricultural lands comprised in different survey numbers of Nedunoor Village. Karimnagar District of the State of Andhra Pradesh were required for submergence under the waters of Maneru Dam. Those agricultural lands were acquired pursuant to Notification published in the State Gazette dated February 2, 1979, as required by Section 4(1)

A of the Act. The agricultural lands so acquired, were dry lands, single crop wet lands, and double crop wet lands. In some of those agricultural lands, there were irrigation wells, as well.

B The Land Acquisition Officer (LAO), by an award made under section 11 of the Act determined the market value of the said agricultural lands and the said irrigation wells separately and awarded compensation payable thereunder, to the concerned owners of the acquired lands. Nature of crops grown on the lands, that is, dry crop, wet single crop or wet double crop while formed the basis for the LAO to determine the market value of the agricultural lands, estimate of the cost of construction of each C irrigation well prepared by the Public Works Department formed the basis for the LAO to determine the market value of such irrigation wells.

D The Court of Subordinate Judge at Karimnagar, the Civil Court, which considered the question of enhanced compensation payable to the owners for their agricultural lands and irrigation wells, on reference received by him under Section 18 of the Act, enhanced not only the market value of dry lands to Rs. 4,500 per acre, single crop wet lands to Rs. 7,500 per acre, and double crop wet lands to Rs. 10,000 per acre as against the market value of Rs. 2,400 per acre, Rs. 5,400 per acre and Rs. 8,100 per acre respectively determined for such agricultural lands by the LAO, but E also enhanced the market value of some of the irrigation wells according to the cost of construction of each of them as estimated by a retired Town Planning Supervisor (P.W.3), as against their market value determined by the LAO on the basis of their estimates prepared by the Public Works Department, and of the remaining irrigation wells by increasing their F market value as determined by the LAO by 75 per cent. Consequently, the Civil Court made an award under Section 26 of the Act granting the enhanced market value of the acquired agricultural lands and enhanced market value of the irrigation wells, and further granting solatium on such market value at 30 per cent and interest on compensation at 9 per cent for the first year from the date of taking possession and for the subsequent G years upto the date of payment of compensation at the rate of 15 per cent per annum.

But the said award of the Civil Court by which compensation payable for the acquired agricultural lands and irrigation wells had been enhanced, H was questioned by the LAO in an appeal filed against it before the High

Court. However, the market value of the agricultural lands, as enhanced by the award of the Civil Court was not interfered with by the High Court on its view that the enhanced market value given by the Civil Court for similar lands in its earlier two awards had been confirmed by it in appeals filed therefrom and the decisions in those appeals had become final. When it came to the market value of irrigation wells enhanced by the Civil Court, the High Court found that such enhanced market value for the wells ought not to have been given by the Civil Court on the basis of estimates of costs of wells prepared by a retired Town Planning Supervisor (P.W.3). Consequently, it refused to uphold the enhanced market value given for the irrigation wells by the Civil Court. Yet, on its own, the High Court enhanced the market value of the irrigation wells at 75 per cent of their market value determined by the LAO, finding justification for such enhancement on the basis of another award of the Civil Court wherein such enhancement for the market value of the irrigation well had been given. Thus by its Judgment and Decree, the High Court enhanced the compensation payable for the wells by 75 per cent of what was given for them by the LAO.

The owners of the lands who were not satisfied with the enhanced compensation granted by the High Court for their agricultural lands and irrigation wells filed the present appeal by special leave against the judgment and decree of the High Court seeking from this Court grant of further enhanced compensation therefor. However, we are now concerned in this appeal with enhanced compensation sought for irrigation wells, since at the time of grant of leave, the appeal is restricted to the consideration of grant of enhanced compensation to the appellants for their irrigation wells.

The learned counsel for the appellants, the owners of the acquired agricultural lands, contended that the High Court was unjustified in relying upon the estimated costs of irrigation wells in the acquired appellants lands prepared by the Public Works Department, for determining the market value of those irrigation wells, when the Civil Court had rightly refused to rely upon such estimated costs in the absence of records of such estimated costs produced before it. According to the learned counsel, when the Civil Court had determined the market value of the irrigation wells on the basis of estimate of cost of each well prepared by a private engineer (P.W.3) with reference to prevailing construction cost of the data of Public Works Department and awarded compensation therefor, the High Court ought

A not to have interfered with the compensation so awarded by the Civil Court for such irrigation wells. The learned counsel, therefore, pleaded for grant by us, of enhanced compensation to the appellants for their irrigation wells in their acquired agricultural lands, according to the award made by the Civil Court.

B Since estimated construction costs of irrigation wells of agricultural lands cannot form the basis for awarding compensation for such irrigation wells independently of the compensation awardable for the agricultural lands for the benefit of which such wells existed, the contentions raised by the learned counsel in support of the appellants claim for grant of enhanced compensation for the irrigation wells with reference to estimated costs of construction of such wells prepared by engineers, do not commend acceptance.

D Irrigation wells for which enhanced compensation is sought in the present appeal are admittedly those which existed in the acquired agricultural lands for which enhanced compensation is awarded by the Civil Court, and the High Court. Question of granting further enhanced compensation for the acquired agricultural lands by this Court in this appeal does not arise since this Court has ordered that consideration of this appeal shall be restricted to claim of the appellants for grant of enhanced compensation for their irrigation wells.

F When agricultural lands are acquired under the Act, the owners of such lands or persons who have interest in them become entitled to payment of compensation awardable for such lands under the Act. The main component of such compensation would be the market value of the acquired agricultural land. Market value of agricultural land has to be determined under the Act with reference to the date on which preliminary notification was published in the State Gazette proposing its acquisition and according to the price which a buyer interested in agriculture would have paid for it to the owner having regard to its soil, the irrigation and other facilities, it commanded for its maximum utilisation for agricultural purposes. The highest factor that contributes to the market value of agricultural land, is the irrigation facility it commands, admits of no controversy. Irrigation facility commanded by the agricultural land is that water supply which it can command for crops to be grown in it. Sources of such water supply, apart from rain water, may be river water, tank water, well water

etc. Where river water or tank water is unavailable or is insufficient for cultivation of agricultural lands open irrigation wells are sunk. If the soil of the land in which they are sunk is likely to cave in, the same will be prevented by raising stone or brick or cement walls or by use of cement rings. The yield of water in wells vary from well to well. Intensive cultivation of agricultural land is done where the water yield of its irrigation well/wells is high. Such irrigation wells, even if had been dug up and walled effectively, may stop yielding water because of bore wells bored in the neighbouring lands or some other natural causes such as drought. In such events, the irrigation wells will become worthless. Hence, the advantage which an agricultural land may have because of the irrigation facility it had from the irrigation well, could only enhance the value of agricultural land depending upon the water yield from the well. Again when the agricultural land, the irrigation of which was possible from the water of the irrigation well, is acquired, the value of the land so acquired will have to be determined taking into consideration the irrigation facility it had from the well. In this situation the irrigation well in an acquired agricultural land, cannot have a value apart from the value of the agricultural land itself. The LAO, the Civil Court and High Court, when have determined the market value of the irrigation wells and awarded compensation to the owners of those wells, having determined the market value of the acquired agricultural lands on the basis of nature of crops grown in them obviously taking into consideration, the water facility they had from the irrigation wells situated, in them, they have proceeded on a misconception that the market value of the irrigation wells had to be determined according to their construction costs and compensation was payable for them under the Act independently of the compensation payable for the agricultural lands. As the award of compensation for the irrigation wells of the appellants by the LAO, the Civil Court and the High Court was, in itself wholly unwarranted, question of granting by us further enhanced compensation for irrigation wells of the appellants situated in their acquired agricultural lands cannot arise. Hence, this appeal of the appellants, the owners of the acquired agricultural lands, must necessarily fail.

In the result, we dismiss this appeal but without costs.

T.N.A.

Appeal dismissed.