

(1994) 05 SC CK 0056

In the Supreme Court Of India

Case No : Civil Appeal No's. 851 and 852 of 1993

K. Periasami

APPELLANT

Vs

Sub-Tehsildar (Land Acquisition)

RESPONDENT

Date of Decision : 04-05-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (1994) 2 SCALE 996 : (1994) 4 SCC 180 : (1994) 3 SCR 902 : (1994) 2 UJ 351

Hon'ble Judges : N. Venkatachala, J;K. Ramaswamy, J

Bench : Division Bench

Final Decision : allowed

Judgement

1. By a Notification u/s 4(1) of the Land Acquisition Act, 1894 published in the Tamil Nadu Gazette on March 7, 1973 a large extent of lands including Survey No. 11/4 and 49/7 in Thathanai Village, near Madurai were proposed to be acquired for a Housing Scheme. The Land Acquisition Officer determined the market value of that land @ Rs. 92/- per cent. On reference u/s 18, the Civil Court, by its award, enhanced the market value of that land to Rs. 800/- per cent as against the claim of the appellant at the rate of Rs. 1500/- per cent The High Court, by its judgment and decree dated October 25, 1989 confirmed the award of the Civil Court and dismissed the appeal in Civil Appeal No. 763 of 1987 of the State. It also dismissed the cross-objections of the of the appellant. Hence, this claimant's appeal by special leave. .

2. It is not disputed that the market value of lands acquired pursuant to the said Notification has been determined by different benches of the High Court such as appeals Nos. 538/87 and 1226/86 titled Special Tehsildar, Land Acquisition v. Lakshmi Ammal and Anr. The lands for which the Land Acquisition Officer had awarded at the rate of Rs. 70/- per cent and the Civil Court on reference, had enhanced such rate to Rs. 850/- per cent, the High Court on appeal had enhanced the rate in two cases to Rs. 1000/- per cent and in two other cases to

Rs. 1050/- per cent. Since the lands under consideration in the present appeals are situated in the same area and were acquired under the same acquisition and the Land Acquisition Officer himself had treated the lands to be in a better advantageous position than the lands covered in the other appeals, it would be clear that the lands in these appeals are possessed of better advantageous features than the lands covered . by the judgment in other appeals by fixing their value at the rate of Rs. 92/- per cent. This fact was not noticed by the learned Judge, while disposing of the appeals, as it is observed that there is no evidence as to parity of the advantageous position of the lands to award the same compensation. The observation appears to be incorrect. The treatment of the lands by the Land Acquisition Officer himself by awarding to them a rate of 92 . per cent in these appeals while he had awarded the rate of Rs. 70/- per cent of lands in the other appeals furnishes the intrinsic evidence that the lands in question are situated in a better advantageous position than the lands concerned in the other appeals. When such is the situation the appellant also is entitled to parity of market value for the acquired lands.

3. The appeals are accordingly allowed. The appellant is entitled to 30 per cent solatium and 9 per cent interest on the enhanced compensation for the first year from the date of taking possession and thereafter 15 per cent interest till date of payment or deposit, whichever is earlier. No costs.