

(1965) 04 MAD CK 0041

In the Madras High Court

Case No : Apps. No's. 199 etc., of 1960 and 278 etc. of 1961

Kamalam

APPELLANT

Vs

The Special Tahsildar No. III for Land Acquisition, Tindivanam

RESPONDENT

Date of Decision : 05-04-1965

Acts Referred:

Land Acquisition Act, 1894 — Section 12(2), 17, 31(2), 4(1), 45

Citation : (1965) 04 MAD CK 0041

Hon'ble Judges : Venkatadri, J; Veeraswamy, J

Bench : Division Bench

Advocate : T. Munuswami Reddy, for the Appellant;

Final Decision : Dismissed

Judgement

Veeraswamy, J.—These are appeals, some of which by the State and the rest by the claimants, arising out of a common judgment of the District Judge of South Arcot on a reference under S. 17 of the Land Acquisition Act. The acquisition in this case related to Veedur Project and the lands acquired are all situate in Padirapuliyur village, Tindivanam taluk, South Arcot Dt. They fall under three categories : (1) single and double crop wet lands (2) well-irrigated lands and (3) rain-fed lands. The owners claimed Rs. 3000 for single crop and Rs. 4000 for double cropper acre of wet land, Rs. 2000 for the second category and Rs. 1000 for the last category of land. The Land Acquisition Officer fixed Rs. 2024 per acre of both double and single crop wet lands, Rs. 1194 for well-irrigated dry lands and Rs. 532 for rain-fed lands except in one case in which it was fixed at Rs. 110 per acre. The District Judge enhanced the compensation by fixing Rs. 2272 per acre of single crop wet land and that amount plus 20% per acre for double crop wet lands, Rs. 1250 per acre of well-irrigated dry lands and Rs. 538 for rain-fed land in the particular reference in which that matter was raised. Dissatisfied with this judgment as we said both the State and the claimants in some of these cases have preferred appeals. But it may be seen that all these appeals turn on the same point relating to the quantum of compensation for each category of

land. Mr. Munuswami Reddi for the claimants, who are the appellants before us, submits that although the sale deed dated 3rd August 1957 was properly taken by the District Judge as the basis, he failed to take into account the increase in price between that date and the dates of notification under S. 4(1) of the Act, namely, 4th March 1959 and 11th March, 1959. He draws our attention to the evidence of two of the witnesses, R. Ws. 10 and 13, and contends that the increase during the interval between the two dates ranged between Rs. 100 and Rs. 200 per acre. The evidence of R.W. 10 is too vague. But R.W. 13 no doubt fixes the increase at Rs. 100 to Rs. 200 per acre. Learned Counsel for the claimants also argues that lease deeds referable to the interval would also throw light upon the increase in price. But we are unable to get any light from the leases. This is not a case in which the claimants have asked for fixing the market value of the land at so many times of the rents covered by the rent deeds. As we mentioned, Mr. Munuswami Reddi himself did not seriously contend that the sale deed dated 3rd August 1957 did not furnish a proper basis for fixing the market value. We are of the view, therefore, that on the basis of the oral evidence and having regard to the general trend in price, we will be justified in taking that the price per acre increased probably by Rs. 150 per acre between 3rd August 1957 and 4th March 1959 and 11th March 1959. As to the percentage of increase to be given for double crop wet land over the market value for the single crop wet land, it is contended that 20 per cent allowed by the District Judge is too low. But the claimants themselves asked for Rs. 3000 per acre of single crop wet land and Rs. 4000 per acre of double crop wet land and this works out at roughly one-third difference. Taking this into account, we think that an increase of 25 percent, over the market value of the single crop wet land will be a fair and reasonable rate to be allowed for double crop wet land. Accordingly the market value of single crop wet land is fixed at Rs. 2422 per acre and that of the double crop wet land at Rs. 2422 plus 25 per cent, per acre.

2. In A.S. No. 278 of 1961 which relates to double crop wet land it is contended on behalf of the State that the corresponding reference under S. 17 itself was time-barred inasmuch as it was asked for more than six weeks after the receipt of the notice of the award under S. 12(2) of the Act. It is true as seen from Ex. A-16 the claimant in this case signed on it on 16th May, 1959. The District Judge was not prepared to take this as a proper or sufficient notice to the appellant in the case. We are inclined to accept this view. The mode of service of notice is prescribed by S. 45. It requires that service of any notice under the Act shall be by delivering or tendering a copy thereof. Ex. A-16 contains an endorsement at the end of it that notices were served by the Special Revenue Inspector. But it is not clear whether copies of the notice intended for the claimants was separately served or whether the claimant's signature was merely obtained in Ex. A-16. Learned Government Pleader presses that the endorsement only means that a copy of the notice was served. But we are not clear on this point. In the circumstances, therefore, we agree with the learned District Judge that service as required by S. 45 of the Act has not been satisfactorily proved.

3. Another point argued by the learned Government Pleader in A.S. No. 278 of 1961 is that two days after the service of the notice, the appellant received compensation but without protest. No doubt, S. 31(2) of the Act contemplates by one of its provisos that any person who is not satisfied with the quantum of compensation awarded may receive it under protest. But this does not mean that if any amount awarded is received as compensation without protest, the claimant concerned is denied his right under S. 17 to ask for a reference. We are unable to hold that the proviso is intended to have affect as a kind of estoppel against the claimant concerned exercising his right under S. 17.

4. So far as well-irrigated lands are concerned, the compensation awarded by the District Judge at Rs. 1250 per acre was based on the sale deed dated 22nd July, 1958. It is argued before us that the District Judge should have taken Ex. B-12 dated 14th July, 1958 as the basis. On the basis of Ex. B-12 the rate will work out at Rs. 1667 per acre. The learned District Judge referred to this document in his judgment, but was not prepared to take it as a basis for the reason that it was a case of purchase for sinking a bore well, a special purpose. We are not satisfied that this is a proper reason to reject Ex. B-12, which is the same as Ex. B-7. But considering the fact that this sale deed covered only an extent of 42 cents, we are inclined to fix the market value at Rs. 1,500 per acre. It follows that the appeals by the State in respect of this matter must fail and the appeals of the claimants relating to well-irrigated lands should be allowed to that extent.

5. There remains for consideration A.S. No. 571 of 1961. The District Judge raised the market value to Rs. 538 per acre from Rs. 110 per acre allowed by the Land Acquisition Officer. We notice that the Land Acquisition Officer himself had given Rs. 538 per acre of rain-fed land in the other cases, and we do not see any sufficient reason why any distinction should be made in the case of the land involved in A.S. 571 of 1961. It appears to us that the increase allowed by the District Judge in this regard is correct. The result is the appeals filed by the State are dismissed, and those of the claimants are allowed as indicated above. There will be no costs in any of the appeals.