(1963) 12 MAD CK 0006

In the Madras High Court

Case No : Appeal No. 209 of 1960

Mohammed Karimuddin and Others APPELLANT

Vs

The Collector of Madras RESPONDENT

Date of Decision : 03-12-1963

Acts Referred:

Land Acquisition Act, 1894 — Section 17(1), 17(4), 4(1), 6

Citation : (1964) ILR (Mad) 337

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

Bench : Division Bench

Advocate : V. Tyagarajan and T.K. Subramania Pillai, for the Appellant; A. Alagiriswami, Government Pleader and G. Ramanujam, for the Respondent

Final Decision : Allowed

Judgement

Venkatadri, J.—This appeal arises out of land acquisition proceedings taken for the acquisition of property bearing E.S. No. 100 in

Nungambakkam for the construction of staff quarters, etc., for Central Government Officers. The extent of the said U.S. No. 100 is 7 cawnies, 3

grounds and 976 square feet. Out of this extent 6 cawnies 17 grounds and 708 square feet were acquired under the emergency provisions of the

Land Acquisition Act and the remaining 10 grounds 2,688 square feet were acquired under the ordinary provisions of the Land Acquisition Act.

The subject matter of the present appeal is the land acquired under the emergency provisions of the Act. The notification u/s 4(1) read with Section

17(4) of the Act with regard to the acquisition of the property covered by this appeal was published in the Gazette on 26th June 1957. The draft

declaration u/s 6 of the Act read with Section 17(1) was published in the Fort St. George Gazette, dated 6th November 1957. The owners of this property claimed compensation at the rate of Rs. 4,000 per ground relying on the sales of properties in and around the area. The Acquisition

Officer awarded compensation at the rate of Rs. 2,000 per ground. He also awarded compensation for the building and trees in the acquired land

but we are however not concerned with it in the present appeal. When the matter was referred to the Principal Judge, City Civil Court, Madras, he

came to the conclusion that Rs. 3,000 per ground would be the proper value for the land in that area and granted compensation at that rate for 53

grounds which abut the main road. Out of the remaining extent of 108 grounds he deducted about 15 per cent or 16 grounds for the purpose of

laying out roads and even, with regard to the balance of 92 grounds, he deducted from the compensation payable a sum of Rs. 600 per ground

towards cost of the amenities to be provided in that area. Aggrieved by this order, the owners have preferred this appeal.

2. The land under acquisition is situated in Haddows Road and has a frontage on College Road also. It is in a well-developed locality wherein all

facilities-have been already provided by the Corporation of Madras long prior to the acquisition. The land under acquisition is extensive in area

being about 161 grounds and belongs to a Muhammadan gentleman. There are two buildings situated in this extensive area. The object of the

acquisition is the construction of quarters for Central Government servants. A lay out has, therefore, to be prepared and some portion has to bet

set apart of roads and other amenities such as drainage, etc. have to be provided for the benefit of residents of the quarters. But it will not be just

or proper to deduct from, the compensation payable to the owners a sum of Rs. 600 per ground towards cost of these, amenities. The owners

cannot be made liable for the costs of these amenities. The land acquired by the Government is not agricultural land or accommodation land, but it

is building land. There is a great demand for plot in this locality. The land is situated in the heart of the city. The entire area has been electrified and

the Corporation has, as stated already laid down good roads and provided all facilities for the residents of that locality. It is only within the area

acquired by the Government that roads have to be laid and necessary facilities have to be provided for the convenience of persons, occupying the

quarters to be constructed by the Government in that area. It is not one of those cases where the Government has acquired land in an undeveloped area for the purpose of converting it into a housing area, where naturally certain portion of the acquired land should be set apart for laying roads

and other amenities have to be provided for the residents in that area. The Government would be justified in such cases in deducting the cost of the

amenities from the compensation payable to the owners. This principle will not apply to a case of acquisition of a large extent of land in the

occupation of a single owner and situated in the heart of the town, where all amenities have already been provided for the residents in the

neighbourhood. The owner in such a case cannot be called upon to bear the cost of the amenities to be provided in his land which has been

acquired by the Government for the purpose of constructing quarters for its servants. The deduction of 16 grounds for laying roads in the area

acquired cannot also be supported. We do not agree with the view taken by the Principal Judge, City Civil Court, Madras, that 16 grounds out of

the area acquired should be deducted for laying roads and that out of the compensation payable for 92 grounds, Rs. 600 per ground should be

deducted. But we agree with him that for the 53 grounds abutting the main road, the owners should be paid Rs. 3,000 per ground as

compensation. Regarding the rest of the property which is in the rear and which has no road frontage, the compensation has naturally to be fixed

taking into account the situation, size, depth and other factors and there must be some difference between the compensation payable for the land

abutting the main road and the land situate in the rear portion. We think that a sum of Rs. 2,750 per ground would be just compensation for the

rest of the area.

3. In the result the appeal is allowed with costs and the Appellants will be Awarded compensation at the rate of Rs. 3,000 for 53 grounds and at

the rate of Rs. 2,750 for the balance of 108 grounds.

