
(2015) 03 MAD CK 0401
In the Madras High Court
Case No : C.R.P. (NPD) (MD) No. 841 of 2005

Neelammal	Vs	APPELLANT
State of Tamil Nadu and Others		RESPONDENT

Date of Decision : 30-03-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 23(2), 4(1)

Citation : (2015) 03 MAD CK 0401

Hon'ble Judges : Pushpa Sathyanarayana, J

Bench : Single Bench

Advocate : N. Sivakumar, for the Appellant; M. Rajarajan, GA, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Pushpa Sathyanarayana, J.

1. The claimant has focused the instant Civil Revision Petition questioning the judgment dated 21.11.2003 passed by the learned Principal Subordinate Judge, Nagercoil, in L.A.A. No. 6 of 1999 in fixing the quantum of land value in respect of Lands acquired in Easanthimangalam Re-Survey No. 155/9 and Erachakulam Re-Survey No. 31/1, Nagercoil.

2. Pursuant to Notification dated 06.10.1995 issued under Section 4(1) of the Land Acquisition Act [for short, "Act"], the lands of the petitioner/claimant which were situated in Re-Survey No. 155/9 and Re-Survey No. 31/1 in Easanthimangalam village and Erachakulam village respectively, to an extent of 12 1/2 Cents and 4 1/2 Cents respectively, were acquired under the Harijan Welfare Scheme for the purpose of providing house sites for the Adi Dravidas residing in the same villages. After complying with the formalities, the Land Acquisition Officer had fixed the quantum of compensation at Rs. 170/- per cent and arrived at a sum of Rs. 47949/- in respect of the acquired lands of 0.89.0 Hectares of the petitioner/claimant and accordingly, passed Award No. 7/95 - 96

dated 08.03.1996, whereas on the matter on being appealed to the Principal Subordinate Judge, Nagercoil, at the instance of the claimant, the compensation was enhanced by Rs. 30/- per cent and accordingly, a sum of Rs. 200/- per cent was awarded in addition to 15% towards solatium and interest at 6% per annum.

3. Being aggrieved by and dissatisfied with the enhancement awarded by the Court below, the claimant has preferred the instant Civil Revision Petition.

4. Learned counsel appearing for the petitioner/claimant contended that the market value of the acquired land has not been determined by the trial Court based on the sale instances which are substantive evidence produced in justification of the claim. He further contended that the trial Court has failed to appreciate Ex. A.1 dated 07.7.1993, which, according to the learned counsel, a five year old document at the time of acquisition proceedings. Relying on Section 23(2) of the Act, the learned counsel contended that the Court below ought to have awarded 30% solatium and interest thereon.

5. On the other hand, learned Government Advocate representing the State contended that the Court below, after considering evidence and all relevant materials on record, has already enhanced the amount of compensation payable to the land owners more than the actual value of land.

6. The point for determination in this Civil Revision Petition is as to what should be the value to be fixed for the land acquired?

7. I have carefully considered the respective arguments of the learned counsel appearing for the revision petitioner/claimant and the learned Government Advocate representing the State with reference to the material evidence on record with a view to examine as to whether the land owner is entitled for enhanced compensation on the basis of sale instances placed on record in relation to the lands situated near the acquired land.

8. It is on record that the land has been acquired by the State Government for the purpose of providing house sites to the Adi-Dravidas of the same area under the Harijan Welfare Scheme.

9. From the materials available on record, it is seen that certain extent of lands were sold in S. No. 3/1,2,3 of Erachakulam village under sale deed dated 19.01.1995 for Rs. 170/- per cent. Taking that as basis, Land Acquisition Officer fixed the value in the instant case as Rs. 170/- per cent.

10. Certainly computation of the market value of the acquired land is to be done either with the assistance of a valuer or with reference to market value of the comparable lands in the vicinity as disclosed from bonafide sale instances during the period in or about the time of the acquisition. Section 23 of the Land Acquisition Act, 1894 requires the Court to take into consideration firstly the market value of the land at the date of publication of notification under Section 4(1) of the Act in determining the amount of compensation to be awarded for the land acquired.

11. During the course of argument, learned counsel appearing for the revision petitioner relied on Ex. A1, sale deed dated 07.07.1993 under which an extent of 3 cents in S. No. 156/3 was sold at the rate of Rs. 500/- per cent. In this regard, learned counsel also drew the attention of this Court to the judgment in *The Special Tahsildar, Land Acquisition Officer and Adi Dravidar Welfare, Nagercoil v. Soundararajan and others* [A.S. No. 182 of 2006 disposed on 02.02.2010].

12. A mere reading of the judgment relied on by the learned counsel for the revision petitioner would show that the 4(1) Notification issued in the said case and the order under challenge is one and the same and with regard to the same Survey Number of the same locality. Therefore, the fact that the lands, in question, are situate in the same village and the Survey Number in both cases is same and only sub-division varies cannot be ignored. It is seen that in the said case, the Tribunal itself had fixed the market value at Rs. 605/-. But on appeal at the instance of the Government, the learned Judge, after deducting 30% towards development charges, fixed the amount at Rs. 423.50/- per cent. Though the claimant had claimed a sum of Rs. 700/- as compensation, since the Tribunal itself had awarded Rs. 605/- in a similar case and as it was reduced by this Court to Rs. 423.50/- on appeal by the Government after deducting development charges, I am of the view that there can be no better yardstick for determining the market value of the acquired land in the instant case.

In view of the above, the Civil Revision Petition is allowed in part. The revision petitioner/claimant shall be entitled to the rate of acquired land at Rs. 423.50 per cent and the judgment and decree made in L.A.A. No. 6 of 1999 dated 21.11.2003 on the file of the Principal Subordinate Judge, Nagercoil, stand confirmed except the modification to the extent indicated above. However, in the circumstances of the case, there shall be no order as to costs.