(1983) 03 MAD CK 0056

In the Madras High Court

Ramuammal and Others APPELLANT

Vs

Special Tahsildar, Harijan Welfare' RESPONDENT

Date of Decision : 03-03-1983

Acts Referred:
Land Acquisition Act, 1894 — Section 18, 4(1), 5A, 6

Citation : (1984) 97 LW 128 : (1984) 1 MLJ 103

Hon'ble Judges : Nainar Sundaram, J

Bench : Division Bench

Judgement

Nainar Sundaram, J.—This Appeal is directed against the award of the Subordinate Judge of Coimbatore, in a reference u/s 18 of the Land Acquisition Act I of 1894, hereinafter referred to as the Act. The Land Acquisition Officer, after an award enquiry, awarded compensation at the rate of Rs. 2,600 per acre with the usual solatium of 15 per cent and interest. The appellants are the claimants and they were not satisfied with the award of the Land Acquisition Officer and hence, the matter was agitated before the Subordinate Judge of Coimbatore, on a reference u/s 18 of the Act. The lands concerned are as follows:

2. They are situated in Perurchettipalayam Village which is stated to be in the periphery of Coimbatore city and is situated in Coimbatore Taluk itself. The learned Subordinate Judge considered the matter and found no warrant for countenancing the claim for enhancement of the compensation made by the claimants. Aggrieved by the decision of the learned Subordinate Judge, the claimants who wanted compensation at the rate of Rs. 35,000 per acre, have come forward with this appeal.

In this appeal, apart from the compensation awarded by the Land Acquisition Officer, which has been confirmed by the learned Subordinate Judge at the rate of Rs. 2,600 per acre the claimants have asked for enhanced compensation at Rs. 27,400 per acre. Certain factual features present in the case cannot be omitted to be taken note of. The notification u/s 4(1) of the Act was made on 10th August, 1972. The acquisition was for the purpose of providing house sites to the Harijans of the village. The claimants, appellants herein, relied on a sale deed Exhibit A-5, amongst other documents, in support of their claim for enhanced compensation. It would be in order for the purpose of this case, if reference is made to Exhibit A-5 which is dated 30th June, 1971. There, we find that an extent of 6 cents of land in survey number 114/2 has been sold at the rate of Rs. 350 per cent. The village karnam was examined in the case as R. W. 1 and has stated in his evidence that the adjoining lands, survey numbers 111/1 and 114/3 have been divided into house-sites by the owners and they were sold as house sites He has further deposed that the acquired lands are of the same level and if they are divided into various sites and sold as such, they would have fetched Rs. 250 per cent. The learned Subordinate Judge has brushed aside this evidence of R, W. 1 stating that it is hypothetical. We are not able to appreciate this reasoning of the learned Subordinate Judge because R. W. 1 is the village Karnam examined on behalf of the respondent and there is no reason to eschew his evidence for the purpose of assessing the potential value of the lands in question. His evidence clearly indicates that the lands in question could be converted into house-sites and sold as such. His further evidence is that the lands acquired are adjoining Oornatham, and there are large number of built up houses nearby. It is well-settled that in deciding whether a land is or is not a potential building site, its situation, location, proximity to existing buildings and existence of road or roads would be determining factors. The evidence in this case discloses that the lands acquired adjoin roads already laid and used. Hence, we can take it that the lands acquired have all potentialities of being used as building-sites, and the very purpose of the acquisition is only that.

3. The learned Subordinate Judge puts against the claimants Exhibit B-4, which is only an objection statement made by the claimants to the acquisition itself and that is dated 20th December, 1973. We find that the enquiry u/s 5-A of the Act was held on 21st October, 1973 and the declaration u/s 6 of the Act was made on 30th July, 1975 and obviously, the award enquiry was conducted subsequently and under such circumstances, any statement made by the claimants while objecting to the acquisition itself need not be counted against them on the question of the value of the land which would legitimately arise only in the course of the award enquiry. Even in Exhibit R-4, the claimants have valued the lands at Rs. 1,00,000 per acre.

4. The materials placed in the case amply justify our placing reliance on Exhibit A-5, dated 30th June, 1971, which indicates the value at Rs. 350 per cent in June, 1971 for lands sold as house sites. The relevant date taken for the purpose of computation of the compensation is the date of the notification under Section4(1) of the Act and that date in this case is 16th August, 1982, practically one year and two months later. Hence, we cannot omit to take note of the probable increase and escalation in the value of the lands, especially in and around Coimbatore which is an industrial city. It will not be unreasonable to take the value of the lands, sold as house-sites, at Rs. 450 per cent on the date of the notification u/s 4(1) of the Act, namely 16th August, 1972. We may, at this

stage, point out that the learned Subordinate Judge has placed reliance on the sale deed, Exhibit B-1, dated 6th September, 1971 which has been relied on by the respondent. The land sold under that sale deed is of a larger extent of 50 cents and situated in Survey number 52/5 and it is admitted that it is situated about six furlongs away from the land acquired. It is not sold as a house-site. Where lands could be used as building-sites, prices paid in the neighbourhood for building-sites are definitely a proper and acceptable indicator. The land dealt with under Exhibit A-5 is situated in very close proximity with the lands acquired.

5. There is'' one feature which we are bound to take note of and which is a relevant feature for the purpose of assessing and arriving at the compensation. Here, we find that the lands acquired are of larger extent. The well-recognised principle is, to arrive at the value of a large extent of land which has the potentialities of becoming house-sites, on comparison with the value of house sites already sold in the locale, the process of estimating must necessarily involve deduction towards cost of developing the larger extent into house-sites by laying roads and providing other amenities therefor. We find that the facts of this case disclose that there are already built-up houses nearby and there are roads already laid and used in the locale and hence, the overall expenses for developing the lands acquired as house-sites can reasonably be estimated at 50 per cent of the aggregate value of the lands at the rate of Rs. 450 per cent. At this ratio, the value for the lands acquired will work out to Rs. 360 per ceat. In this case, however we find that apart from the compensation at the rate of 360 per cent awarded by the land Acquisition Officer and which has been confirmed by the learned Subordinate Judge, the claimants have restricted their claim for enhanced compensation at Rs. 274 per cent, or Rs. 27,400 per acre. Hence, we feel justified in fixing the compensation at Rs. 300 per cent. Accordingly, this appeal is allowed and there will be a decree awarding enhanced compensation of Rs. 274 per cent, over and above the compensation of Rs. 26 per cent already awarded, with the usual solatium of 15 per cent, and interest. The appellants are entitled to their costs in this appeal and the parties are directed to bear their respective costs in the Court below.