
(2010) 07 MAD CK 0208
In the Madras High Court
Case No : Appeal Suit No. 970 of 2001

Revenue Divisional Officer

APPELLANT

Vs

Chokkiyammal

RESPONDENT

Date of Decision : 08-07-2010

Acts Referred:

Citation : (2010) 07 MAD CK 0208

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Ravi, Spl. G.P, for the Appellant; No appearance, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—Both appeals were filed by the Revenue Divisional Officer, Thiruppathur. The two appeals are directed against the L.A.O.P. Nos. 339 and 340 of 1984.

2. In the first appeal, A.S. No. 970 of 2001, notice was served on the respondent and her name appears in the cause list. In the second appeal, A.S. No. 917 of 2001, the Tapal sent to the respondent has come back with an endorsement "No more". No steps have been taken to bring the legal representatives on record.

3. The lands of the contesting respondents were acquired for the purpose of locating the godown for the Food Corporation of India. The acquiring authority fixed the compensation at Rs. 36/- per cent. Subsequently, on an objection made by the land owners, a reference was made u/s 18 to the Reference Court viz., Sub-Court, Vellore and they were taken on file as L.A.O.P. Nos. 339 of 1984 and 340 of 1984. The Reference Court enhanced the compensation to Rs. 150/- per cent together with 30% solatium and also interest at 9%.

4. Before the Reference Courts, on the side of the claimant, one exhibit was filed. On the side of appellant, 9 documents were filed. The Assistant to the Acquiring Officer was examined as R.W.1. The respondents examined themselves as C.W.1.

5. The Reference Court held that the lands are situated very close to the Railway line and several industries are situated near the land and the potential value are likely to improve. It is in that view of the matter the compensation was enhanced. The petitioners have come on appeal against this order with the contention that the data land produced under Ex.B1 was not considered and the lands acquired are not cultivable land but are Manavari dry agricultural land. The location is also far away from Katpadi Railway junction.

6. However, in the evidence of R.W.1., Jambunathan, who is the Assistant to the Acquiring Officer in cross examination had stated that the lands were situated closer to the road and if the lands were made into layouts as housing plots there is a road access to these lands. He also admitted that several town buses are passing near the said land. The SIPCOT is only 15 kms from the location of the land; the BHEL factory is situated within 12 kms from the land wherein 10,000 workers are working. There is a college close by. Since the lands are closer to the Palar river, the well situated are rechargeable and the lands are fit for cultivation. Even otherwise taking into account the potential value as well as the locational advantage and the material produced on the side of the claimants, the Reference Court has enhanced the compensation. The contentions raised by the learned Special Government Pleader cannot be accepted.

7. The Supreme Court in its latest judgment in Special Land Acquisition Officer Vs. Karigowda and Others, held as follows:

75. It is a settled principle of law that lands of adjacent villages can be made the basis for determining the fair market value of the acquired land. This principle of law is qualified by clear dictum of this Court itself that whenever direct evidence i.e. instances of the same villages are available, then it is most desirable that the court should consider that evidence. But where such evidence is not available court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and the potentiality and location of the land is somewhat similar. The evidence tendered in relation to the land of the adjacent villages would be a relevant piece of evidence for such determination. Once it is shown that situation and potential of the land in two different villages are the same then they could be awarded similar compensation or such other compensation as would be just and fair.

76. The cases of acquisition are not unknown to our legal system where lands of a number of villages are acquired for the same public purpose or different schemes but on the commonality of purpose and unite development. The parties are expected to place documentary evidence on record that price of the land of adjoining village has an increasing trend and the court may adopt such a price as the same is not impermissible. Where there is commonality of purpose and common development, compensation based on statistical data of adjacent villages was held to be proper. Usefully, reference can be made to the judgments of this Court in Kanwar Singh v. Union of India and Union of India v. Bal Ram.

77. In this regard we may also make a reference to the judgment of this Court in *Kanwar Singh v. Union of India* where sale instances of the adjacent villages were taken into consideration for the purpose of determining the fair market value of the land in question and their comparability, potential and acquisition for the same purpose was hardly in dispute. It was not only permissible but even more practical for the courts to take into consideration the sale statistics of the adjacent villages for determining the fair market value of the acquired land.

If these principles are applied, the judgment and decree passed by the Trial Court cannot be found fault with.

8. Again the Supreme Court in another judgment in *Sagunthala (Dead) through LRs. Vs. Special Tehsildar (L.A.) and Others*, after referring to previous precedents, in paragraphs 24 to 26 and 34 held as follows:

24. In the light of the above material facts this Court feels that the presence of a number of buildings on the lands acquired and the said lands being occupied by the buildings are to be treated as house sites. The basic purpose that has been traced out in the evidence and as admitted by the RWs is that the lands were acquired for the purpose of putting up residential quarters. As a portion of the land is being considered as house site, the adjoining lands have the potential of being put in better use as house sites in the near future.

25. The other important factor is the proximity of the plots to two residential colonies i.e. Anna Nagar and Gandhi Nagar. As it has come on record that Anna Nagar Colony has about 50-60 houses and Gandhi Nagar Colony has about 150 houses, as such it is reasonable and proper to conclude that the present lands under dispute were near the residential colonies .

26. It should also be taken into consideration that the disputed lands were situated near the factory premises and further were adjoining the main road which connects Tanmag Road. As such the aforesaid lands are potential house sites.

....

34. In view of the admitted case that the lands acquired were potential house sites we do not agree with the views taken by the High Court while calculating the compensation. R-13 and R-15 are the two sale deeds containing particulars of the sale transactions held three years prior to the Section 4(1) notification. The Reference Court after close perusal of the aforesaid documents held that the same disclose that out of more than 100 sales, a number of sales in respect of the lands were sold as house sites in Thathaiyangarpatti Village and the adjacent survey numbers in Thekkampatty Village were also sold as house sites.

9. Besides in A.S. No. 971 of 2001, the contesting respondent has not been brought on record. Under these circumstances, this Court do not find any case to interfere with the well considered judgment and decree passed by the Court below. Hence, the appeal stands dismissed. No costs.