
(2010) 07 MAD CK 0172
In the Madras High Court
Case No : A.S. No. 722 of 1996

Special Tahsildar (ADW)

APPELLANT

Vs

Ananda Ramanuja Reddiar (died) and Others

RESPONDENT

Date of Decision : 06-07-2010

Acts Referred:

Citation : (2010) 07 MAD CK 0172

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Ravi, Spl. G.P, for the Appellant; T.R. Rajaraman, for RR2 to 14, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—Heard the arguments of Mr. V. Ravi, learned Special Government Pleader (AS) appearing for appellant and Mr. T. Rajaraman, learned Counsel appearing for respondents 2 to 14. Pleadings set were printed and circulated. Original records were summoned from the court below and were examined.

2. This is an appeal filed by the Special Tahsildar, Adi Dravidar Welfare, Chengam Taluk, Tiruvannamalai District against the judgment and decree passed by the Subordinate Court, Tiruvannamalai made in LAOP No. 70 of 1994, dated 14.8.1995. Since the sole respondent died pending proceedings, applications were taken out in CMP Nos. 790 to 792 of 2008 to bring LRs on record. Accordingly, respondents 2 to 14 were impleaded by an order, dated 19.4.2010 and they were represented by the counsel.

3. The original respondent was in possession of land in Survey No. 76/7 to an extent of 2.28 acres in Vanapuram village, Chengam Taluk. Lands were acquired for the purpose of providing house sites to landless Adi Dravidars in the village of Vanapuram. The lands were originally classified as Sarkar Punja land. After following due procedures under the Central Act 1/1894, an Award was passed in Award No. 4/1993-1994, dated 22.3.1994. The acquiring officer claimed that he

had gone through various sale deeds during three years preceding the date of 4(1) notification and within ? kms. from the land in question and finally arrived at the following figures:

(i) Market value of the land - Rs. 48,949.00 (ii) 30% solatium - Rs. 14,685.00
(iii) 12% interest - Rs. 9,865.00

Total - Rs. 73,499.00

4. The original respondent appeared before the officer concerned on 22.3.1994 and insisted that compensation was very low and the matter should be referred for higher compensation. He also claimed that compensation at the rate of Rs. 2000/- per cent should be fixed and agreed to receive the compensation fixed under protest. Thereafter, the matter was referred to the Reference Court, which was taken on file by the Sub Court, Tiruvannamalai in LAOP No. 70 of 1994. Before the Reference Court, the claimant examined himself as C.W.1 and also examined one Jayaraman as C.W.2. He filed three documents as Exs.A.1 to A.3. On behalf of the appellant herein, one Adimoolam was examined as R.W.1 and three documents were filed. They were marked as Exs.B.1 to B.3. Ex.A.1 is the copy of the order passed in LAOP No. 7 of 1986, dated 1.10.1986. Ex.A.2 is the sale deed, dated 27.1.1994. Ex.A.3 is the common order passed in several LAOPs starting from LAOP No. 6 of 1986, etc. batch case. With reference to the exhibits filed by the appellant, Exs.B.1 and B.2 related to statistical reports. Ex.B.3 related to model top sketch drawn by the Surveyor.

5. The appellant in the Award proceedings referred to 44 sale deeds and found that the document No. 42, wherein 1.77 acres of punja land was sold for Rs. 38000/- on 16.9.1992. It was approximately equivalent to the land in question. The respondent/land owner filed his counter statement and contended that the lands which were acquired was for the purpose of constructing houses as they were dry lands and they were surrounded by Cinema theatre, Market, Government High School, Police station and Quarters and other houses on the side of the main road of the village. Therefore, the acquisition officer did not take note of the potential use of the land to be acquired and it was to construct the houses and it has to be classified as building site.

6. He also referred that the adjacent lands were acquired. The reference court in LAOP No. 7 of 1986 granted higher compensation. The court below after evaluating the evidence came to the conclusion that the compensation fixed at the rate of 214.69 per cent was inadequate. Therefore, they are entitled to get compensation of Rs. 1306.80 per cent. This judgment and decree passed by the Sub Court, Tiruvannamalai in LAOP No. 70 of 1994, dated 14.8.1995 is under challenge in this appeal.

7. The contention raised by the appellant was that this exorbitant increase was not warranted. The reference court did not take into account the relevant guidelines in fixing the compensation amount. In the chief examination C.W.1 had stated that in the nearby place, the Government had acquired the land in

LAOP No. 7 of 1986 and the court had granted Rs. 1800/- per cent. Ex.A.1, one Kuppusamy and Sabari had purchased the land for Rs. 5000/-. C.W.2, a neighbouring land owner was examined. The appellant denied knowledge about the order passed in LAOP No. 7 of 1986. He also feigned ignorance about the registered sale deed. He had agreed that already the land which was acquired was a levelled land which does not require any further levelling up and based on this, a detailed Award came to be passed.

8. Considering the rival submissions, the following issue arises for consideration:

Whether the compensation payable has been exorbitantly increased by the court below?

9. Considering the evidence adduced before the court below, it must be noted that the lands were acquired for house sites. Even the evidence of the appellant was that the lands were already levelled and it did not require further improvement for making it house sites. The evidentiary value of Ex.A.1, i.e. The award passed by the very same court in LAOP No. 7 of 1986 fixing Rs. 1800/- was not denied. Proximity from the road, there are Government offices is also not denied. Therefore, it cannot be said that the compensation was exorbitantly hiked by the Reference Court. On the other hand, the court below correctly found that the lands cannot be considered as dry lands and its potential for use as house site must be taken note of.

10. The Supreme Court in its latest judgment in Sagunthala (Dead) through LRs. Vs. Special Tehsildar (L.A.) and Others, has laid down factors to be determined while awarding compensation. In paragraphs 24 to 26 and 34, it has observed 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.

11. If it is seen in the context of the evidence let in before the court below and also the guidelines issued by the Supreme Court in its latest decision, it cannot be said that the court below had erred in enhancing the compensation. This Court do not find any case to interfere with the compensation enhanced by the court below. Hence, the appeal suit will stand dismissed. However, there will be no order as to costs.