
(2011) 04 SC CK 0146

In the Supreme Court Of India

Case No : SLP (C) ... of 2011 (CC 6080 of 2011) , I.A. 1, SLP (C) ...CC No. 6692 of 2011, SLP (C) ...CC No. 6749 of 2011, SLP (C) ...CC No. 6750 of 2011, SLP (C) ...CC No. 6751 of 2011, SLP (C) ...CC No. 6753 of 2011, SLP (C) ...CC No. 6756 of 2011, SLP (C) ...CC N

Spl. Tahsildar (LA) Unit-IV T.N.H.B.

APPELLANT

Vs

Chinnammal and Another

RESPONDENT

Date of Decision : 18-04-2011

Acts Referred:

Constitution of India, 1950 — Article 136

Land Acquisition Act, 1894 — Section 18, 23(1), 4, 4(1), 54

Citation : (2011) 5 SCALE 218

Hon'ble Judges : G. S. Singhvi, J;Asok Kumar Ganguly, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. These petitions are directed against judgment dated 12.3.2010 passed by the learned Single Judge of the Madras High Court whereby he partly allowed the appeals filed by the Petitioner against the award passed by Additional District Judge (FTC No. 3), Poonamallce (hereinafter described as, "the Reference Court") and reduced market value of the acquired land from Rs. 7,000 per cent to Rs. 6,000 per cent. The Petitioner has also filed applications for condonation of the delay of 222 to 303 days in different special leave petitions.

2. We have heard learned Counsel for the Petitioner and perused the record. In our view, the explanation given by the Petitioner for condonation of delay is not at all satisfactory and the applications filed for that purpose are liable to be dismissed.

3. Even on merits, we are convinced that the impugned judgment does not suffer from any legal infirmity requiring interference under Article 136 of the Constitution.

4. The Government of Tamil Nadu issued notification dated 26.10.1999 u/s 4 of

the Land Acquisition Act, 1894 (for short, "the Act") for the acquisition of 27.88 Acres land situated in 29 Parvatharajapuram village (Block-I) for development of Satellite Town by the Tamil Nadu Housing Board (for short, "the Board"). After considering the report submitted by the Collector u/s 5A, the State Government issued notification dated 6.12.2000 u/s 6 of the Act. The Land Acquisition Officer and Special Tahsildar (LA), Unit-IV, TNHB Scheme, Chennai (the Petitioner herein) passed award dated 25.11.2002 whereby he fixed market value of the acquired land at the rate of Rs. 720 per cent.

5. On a reference made by the Collector u/s 18 of the Act, the Reference Court gave opportunity to the parties to produce oral and documentary evidence. The Respondents produced evidence regarding location of the acquired land and also produced sale instances which were marked as C-1, C- 2 and C-3. The Land Acquisition Officer was examined as RW-1. After considering the oral and documentary evidence produced by the parties, the Reference Court observed that the land was situated between two major roads i.e. Bangalore Highway and main road from Chennai to Tiruvallur and was in the vicinity of Engineering Colleges, Polytechnics, factories, Queen land entitlement establishment, Coca-Cola Company, SIPCOT with 200 factories, Santro City with 200 houses, SIPCOT Industrial Park, schools etc. and had huge potential for development. The Reference Court also opined that the Land Acquisition Officer was not justified in treating the land unfit for cultivation. The Reference Court then referred to the sale instances produced by the Respondents, applied the cut of 30 per cent towards development charges and fixed market value of the acquired land at the rate of Rs. 7,000 per cent. This is evident from paragraphs 13 and 14 of award dated 30.9.2004 passed by the Reference Court, 25 which are extracted below:

13. On perusal of C-1, filed by the claimants, it is seen that on 10.7.1996 one Shanthi sold to Moorthy and part land in Survey No. 96/2 of 3051 sq.ft. S. No. 96/6 of 1864 sq.ft. totaling 4915 sq.ft. for amount of Rs. 1,52,381/-. Accordingly it is seen that it was sold for Rs. 14,000/- per cent. On perusal of Ex-C-2 one Venkatesan sold to one Shyamala land in S. No. 114/3, of 0.06 cent. S. No. 114/2 of 0.14 cent, totaling 0.20 cents by Document No. 954/98 on 4.9.98 for Rs. 2,01,066/-. Accordingly it is seen that it was sold for Rs. 10,000/- per cent. On perusal of C.3 of the claimants it is seen that one Shanthi sold to one Samanthi land of S. No. 96/2 of 1762 sq.ft. By Doc. No. 976/98 on 16.9.98 for Rs. 75,852/-. Accordingly it is seen that it was sold at Rs. 19,000/- for every cent.

14. As per on perusal of C.1 it is seen that sale was fixed for the Rs. 14,000/- per cent as per C-3 sale was fixed for Rs. 19,000/- for a higher price. This Court considers that the fixing of the price is not proper. On perusal of C.2 of the claimant the land in Narasingapuram Village, Punja Survey No. 78/17 part, present New S. No. 114/3, of 0.06 cent land and another S. No. 78/20 part present New S. No. 114/2, of 0.14 cents, totaling 20 cents lands has been sold for Rs. 2,01,066/-. The L.A. Tahsildar has stated during cross examination, 15 Narasingapuram, Parvatharajapuram, Vellavedu and Kuthambakkam, lands are

all of some soil quality and cultivable lands. All the above lands, as stated by him are adjacently placed. Therefore, in Narasingapuram Village land of 0.20 cent has been sold at Rs. 10,000/- per cent. As per the above document, there is no place to conclude that all the 20 cents lands have been sold at the sq.ft. basis. It is clear that they have been sold at cent basis. Therefore, even before Section 4(1) date i.e. even before Section 4(1) date namely 17.12.99, about 1 year back i.e. 14.9.98 Ex C-2 has been created. Therefore this Court considered that the price in the above document for purpose of fixing for the acquired land to be taken as sample documents is just and acceptable. Accordingly it has been as found in Ex-C2 is sold as Rs. 10,000/- per cent. Therefore, u/s 23(1) of Land Acquisition Act this Court considers that all the aspects have been taken into consideration and that the above price in the document has been taken as sample documents and appropriate for fixing the price and so the same is taken as sample documents. In that respect, price is fixed at Rs. 10,000/- per cent for the acquired 45 lands at the same time, all the acquired lands having been taken for formation of satellite town and required for development as plot divisions, and in order to make road facilities, planting electric poles, and for drainage facility. Considering the expenses involved for development, the deduction of 30% is allocated. In that respect 30% deduction amount from Rs. 10,000/- after deducting Rs. 3000/- comes to Rs. 7,000/- it is fixed as compensation amount. Therefore, for the lands concerned with the claimants found in all the above applications, the price is fixed for Rs. 7000/- per cent. And it is decided that the claimants are entitled for 30% solatium and 12% interest and I answer this with you accordingly.

6. The Petitioner challenged the award of the Reference Court by filing appeals u/s 54 of the Act. The High Court affirmed the view taken by the Reference Court that the acquired land had huge potential for development. The High Court also relied on the sale instances produced by the Respondents but applied 40 per cent deduction instead of 30 per cent towards development charges and fixed market value of the acquired land at the rate of Rs. 6,000 per hectare. The discussion on this issue is contained in paragraph 26 of the impugned judgment, which is extracted below:

26. In this case, large extent of lands measuring 44.37.0 Hectares were acquired for implementation of Satellite Town by Tamil Nadu Housing Board. In his evidence, RW2-Executive Engineer, Tamil Nadu Housing Board has stated that the acquired lands were full of thorny bushes and need to be reclaimed for forming layouts. In his evidence, RW2 further stated that for formation of road, laying water and electricity lines, Tamil Nadu Housing board has to spend huge amount. In his evidence, RW2 has also stated that access roads are also to be formed from the main road for which huge amount will have to be spent. Evidence of RW2 would clearly show that the acquired lands are only agricultural lands and huge amount has to be spent for development cost. Even though the lands possess potential for further development, no development had taken place in the acquired lands. Large block of land will have to be developed by preparing a

layout plan, carving out roads, leaving open spaces, plotting out smaller plots and also forming access roads. Tamil Nadu Housing Board will have to wait for purchasers and in the meanwhile, the invested money will be blocked up. These factors can be balanced by making a deduction by way of allowance at an appropriate rate ranging approximately between 20% to 50% to account for the land required to be set apart for carving out lands and plotting out small plots. To make up for the area of the land which is used in providing civic amenities and the waiting period, a deduction of 40% would be appropriate. As pointed out earlier, the value taken by the Reference Court at Rs. 10,000/- per cent is maintained. Deducting 40%, the value of the acquired land is enhanced to Rs. 6,000/- from Rs. 720/- fixed by the LAO, value fixed by the Reference Court is reduced from Rs. 7,000/- to Rs. 6,000/- per cent.

7. Learned Counsel for the Petitioner could not put forward any tangible argument in support of the Petitioner's challenge to the impugned judgment. He could not point out any reason which may justify this Court's interference with the concurrent finding recorded by the Reference Court and the High Court on the issue of location of the acquired land, its potentiality for development and market value. The learned Counsel also failed to convince us to discard the sale instances produced by the Respondents, which were anterior to Section 4 notification.

8. In the result, the special leave petitions are dismissed on the ground of delay and also on merits.

9. For filing frivolous petitions like these one, the Petitioner is saddled with cost of Rs. 25,000/- in each of these petitions. The cost shall be deposited with the Madras State Legal Services Authority within a period of one month from today.

10. The concerned authorities of the State Government and the Board are directed to pay compensation to the Respondents in terms of the impugned judgment, if the needful has already not been done, within three months from today and submit a report to the Registrar General of the High Court, who shall then bring it to the notice of the Bench which had decided the appeals filed by the Petitioner.