(2017) 01 MAD CK 0212

In the Madras High Court

Case No : A.S. (MD). No. 5 of 2015

S.R. Ramasamy — APPELLANT

Vs

The Sub Collector (Land Acquisition) — RESPONDENT

Date of Decision : 30-01-2017

Acts Referred:
Land Acquisition Act, 1894 — Section 4(1)

Citation : (2017) 2 MLJ 629

Hon'ble Judges : Mr. S.S. Sundar, J.

Bench : Single Bench

Advocate : Mr. A. Arumugam for M/s. Ajmal Associates, for the Petitioners; Mr. S. Kumar, Government Advocate, for the Respondent No. 1

Final Decision : Allowed

Judgement

Mr. S.S. Sundar, J.—This appeal has been filed by some of the claimants as against the award of the learned Additional District Court-cum-Fast Track Court, (Land Acquisition Tribunal) Periyakulam, made in LAOP. No.2 of 1996.

2. The brief facts that are necessary for the disposal of the appeal are as follows:

2.1. As per the notification, under Section 4(1) of the Land Acquisition Act, 1894, dated 20.02.1992 an extent of 0.98.5 hectares of land in Vallalnadhi Village was acquired for the purpose of formation of a link road. The notification was also published in the newspaper on 19.03.1992 and in the Tamil Nadu Government Gazette Part II Section 2, on 11.03.1992. The substance of the notification was also published in the locality on 07.04.1992. An extent of 0.98.5 hectares of land in Vallalnathi and another extent of 0.97.5 hectares in Govindha Nagaram Villages were acquired for the purpose of formation of Link Road from Kandamanur to Ambasamuthiram.

2.2. The present appeal is filed by the appellants whose lands to an extent of 0.44.5 hectare and 0.20.0 hectare respectively, which were acquired in Vallalnathi Village. As against the claim of Rs.3,000/- per cent, the land acquisition Officer has fixed the market value at Rs.135/- per cent for the entire land, by the award, dated 31.12.1994.

2.3. At the instance of the appellants and other claimants, the matter was referred to the land acquisition Tribunal for fixation of the just compensation for the lands acquired. Upon reference, the Land Acquisition Tribunal has fixed the market value at the rate of Rs.300/- per cent. Despite the fact that the appellants have relied upon two sale deeds pertaining to the lands, which are very near the acquired lands and had been sold at the rate of Rs.1000/- per cent, the tribunal has fixed only Rs.300/- per cent. It is no doubt true that the claimants have filed two documents i.e., Ex.C1 dated 01.10.1987 and Ex.C2, dated 08.10.1987. Both the documents would show that the land covered under these documents had been sold at the rate of Rs.1000/- per cent. However, these documents indicate that the lands sold under these documents are small parts of two cents and that they were sold as plots meant for house sites. It is only in this circumstances, the Tribunal has come to the conclusion that these documents cannot be relied upon to fix the just compensation.

3. The learned counsel for the appellants submitted that these documents are five years prior to the date of 4(1) notification and that therefore would be relevant to indicate that the acquired lands are also potential, to be treated as house sites, especially, when the land covered by sale deeds Exs.C1 and C2, are very near the acquired lands.

4. The learned counsel for the appellants further contended that Exs.C1 and C2 being the documents came into existence 4 ? years prior to the notification under Section 4(1) of the Land Acquisition Act, 1894, the Tribunal ought to have allowed some enhancement due to escalation of price for the lands, particularly between 1985 and 1995.

5. The submission of the learned counsel for the appellants has legal force having regard to several precedents. This Court, from the documents Exs.C1 and C2, which are admittedly in respect of lands located very near the acquired lands, is able to find that the lands covered under Exs.C1 and C2 are sold as house sites. The sale deeds also indicate that the lands are located very near the acquired lands and were sold as house sites and that therefore the acquired lands also can be taken as lands, which are potential and capable of being used as house sites at the time of acquisition. The learned counsel also referred to oral evidence of claimants in this regard.

6. I accept this contention of the learned counsel for the appellants and come to the conclusion that the claimants have examined PW1 to PW5 to prove that the acquired lands are similar to the lands covered under Exs.C1 and C2 and that the acquired lands are located amidst developed lands. Apart from the compensation that was payable to the lands on the basis of comparable sale method, it is also important to note that the courts have accepted in principle to allow enhancement of value towards escalation of prices, in case, the sale deed relied

upon by the Land Acquisition Tribunal or Land Acquisition Officer was registered long prior to the 4(1) notification, which is the relevant date for fixing the market value for the land. It has also been settled law that 10 to 15% per annum can be enhanced for each year towards appreciation of value. In such circumstances, I am of the considered view that the compensation determined by the Land Acquisition Tribunal at Rs.300/- per cent is too low and that the Land Acquisition Tribunal has erroneously discarded the documents Exs. C1 and C2 without assigning proper reasons. Though the lands which are the subject matter of documents Exs.C1 and C2 are smaller in extent, when no document is produced by emarket value on the basis of the documents available. In that view of the matter, the Tribunal ought to have considered the documents Exs.C1 and C2. Since the documents Exs.C1 and C2 indicate that the market value of the acquired lands as on the date of sale namely October, 1987 is Rs.1000/- per cent, assuming there can be 40% deduction for fixing the market value because of relying upon the documents in respect of smaller extent, I am of the view that a sum of Rs. 600/- per cent can be fixed as market value as on the date of the documents Exs.C1 and C2. The acquisition was made nearly after 4 ? years from the date of the documents Exs.C1 and C2. Hence, an addition of 40% by adding at least 10% per annum towards appreciation of market value every year.

7. It is also to be mentioned that the Land Acquisition Officer or Land Acquisition Tribunal did not consider the grievance of the claimants and their claim that they are entitled to compensation for the severance of their holdings because of acquisition.

8. Considering the various factors, this Court find that the claimants are entitled to a sum of Rs.1000/- per cent as market value for the lands from the date of 4(1) notification.

9. Hence, this appeal is allowed and the judgment and decree of the Land Acquisition Tribunal in LAOP. No.2 of 1996, dated 03.04.2008 is modified by enhancing the market value to the acquired lands from Rs.300/- per cent to Rs.1000/- per cent. The claimants are entitled to other statutory benefits in accordance with law. No Costs.