(2006) 07 MAD CK 0021

In the Madras High Court

Case No : A.S. No. 248 of 1997

The Assistant Collector APPELLANT

Vs

Krishnan (died) and Others RESPONDENT

Date of Decision : 28-07-2006

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

Citation : (2006) 5 CTC 483 : (2006) 4 LW 192 : (2006) 4 MLJ 1077

Hon'ble Judges : P.P.S. Janarthana Raja, J;P.D. Dinakaran, J

Bench : Division Bench

Advocate : V. Ravi, Spl. G.P, for the Appellant; D. Shivakumaran, for R1 to 6, 12 to 14 and 16 to 19, P. Jagadesan, for R7 to 9 and A. Jeenasenan, for R10 and 11, for the Respondent

Judgement

P.D. Dinakaran, J.—The above appeal is directed against the order dated 29.11.1995 in L.A.O.P. No. 198 of 1988 on the file of

Subordinate Judge, Salem. The respondent in the L.A.O.P. is the appellant herein.

2. The lands belonging to the claimants, who are the respondents herein, were acquired for the establishment of Udayapatti Electricity Sub Station.

Not satisfied with the amount of compensation, the claimants sought for a reference and accordingly, the matter was referred to the learned

Subordinate Judge, Salem u/s 18 of the Land Acquisition Act, 1894.

3. In the reference, the case of the claimants, in brief, is as under:

3.1. The lands are situate in a well developed urban residential locality abutting the main road and they are abutting the Salem Steel Plant Bye-pass

road which branches from Salem-Cuddalore Main Road. The co-operative Industrial Estate, Udayapatty, Sago Industry, Rubber Tire Stocking

Yard, Match Factory Unit, Cooperative Spinning Mill, Holy Cross Matriculation

School and Golden Package Industries are situate at a distance

of about a furlong from the lands in question.

3.2. The lands should be valued as house sites. Similar lands in the neighbouring area were sold at not less than Rs. 10/- per sq.ft. on the date of

notification u/s 4(1) of the Land Acquisition Act. The valuation fixed as manavari agricultural lands is not correct. The compensation fixed is too

low and is not keeping with the prevailing market value on the date of notification u/s 4(1) of the Land Acquisition Act.

3.3. The data sale deed is a document relating to the sale of land that took place about one year three months prior to the date of notification u/s

4(1) of the Land Acquisition Act. The claimants relied on sale deeds in Exs.C1, C2 and C5 dated 31.8.1984, 26.8.1985 and 22.11.1985

respectively.

4.1 Learned Subordinate Judge, based on the documents, namely, Exs.C1,C2 and C5 sale deeds, came to the conclusion that the average of the

value mentioned therein may be fixed as the value of the acquired lands per sq.ft. and arrived at a sum of Rs. 4.50 per sq.ft. as the value of the

acquired lands. Having regard to the developments to be made in the lands acquired, the learned Judge held that a reasonable deduction has to be

allowed towards the loss and expenses according to the degree of developments and ultimately, fixed a sum of Rs. 3.50 per sq.ft. as just and

reasonable value for the acquired lands.

4.2. Learned Subordinate judge held that the award of compensation for the well is unwarranted, but she enhanced the value of trees from Rs.

30/- to Rs. 200/- per palmyrah tree and from Rs. 2/- to Rs. 75/- per young palmyrah tree. She also enhanced the value of Karuvela tree to Rs.

50/- per tree.

4.3. Accordingly, the learned Subordinate Judge enhanced the amount of compensation and ordered the reference. It is, against the order of the

learned Subordinate Judge, the present appeal has been preferred by the Government.

5. The point for consideration in this appeal is,

whether the claimants are entitled to the enhanced compensation, awarded by the learned Subordinate Judge, Salem?

6. Point: It is not in dispute that the lands of an extent of 19.20 acres Ammapet village, Salem taluk were acquired for the establishment of

Udayapatti Electricity Sub Station by notification u/s 4(1) of the Land Acquisition Act dated 24.7.1985. Based on the data sale deed (Ex.R-4)

dated 30.3.1984, under which 56 cents of land in Survey No. 416/2C was sold for Rs. 20,000/-, the Land Acquisition Officer fixed the

compensation at Rs. 35,398/- per acre.

7. Mr. V. Ravi, learned Special Government Pleader contended that the enhancement of compensation awarded by the learned Subordinate Judge

is without any basis and the document, namely, data sale deed (Ex.R-4) could alone be taken into consideration for fixation of compensation as it

is prior to the date of notification u/s 4(1) of the Land Acquisition Act, whereas, out of the documents filed and relied on by the claimants, viz.,

Exs.C1, C2 and C5, except Ex.C1, others are subsequent to the date of 4(1) notification and the learned Subordinate Judge was not justified in

taking into account those documents for fixing the amount of compensation. According to him, the Land Acquisition Officer has correctly

considered the data sale deed (Ex.R-4) and fixed the compensation at the rate of Rs. 35,398/- per acre.

8. On the other hand, Mr. Shivakumar, learned Counsel appearing for some of the claimants, sustaining the enhancement of compensation,

submitted that the learned Subordinate Judge has correctly taken into consideration the documents Exs.C1, C2 and C5 and arrived at the average

thereof for fixing the compensation at Rs. 3.50 per sq.ft.

9. Where large area is the sub-matter of acquisition, the rate at which small plots are sold cannot be a safe criterion. It cannot, however, be laid

down as an absolute proposition that the rates fixed for the small plots cannot be the basis for fixation of the rate. For example, where there is no

other material, it may in appropriate cases, be open to the adjudicating court to make comparison of the prices paid for small plots of land.

However, in such cases necessary deductions/adjustments have to be made while determining the prices (vide: Land Acquisition Officer v.

Nookala Rajamallu (2003)12 SCC 333 : AIR 2004 SC 1031.

10. On the facts of the case, it is clear that Ex.C-1 is a sale deed dated 31.8.1984 under which 40 cents was sold at the rate of Rs. 2/- per sq.ft.

approximately. Ex.C-2 is a sale deed dated 26.8.1985 with regard to the sale of an extent of 3022 sq.ft. at the rate of Rs. 5/- per sq.ft. Ex.C-5 is

a sale deed dated 22.11.1985 under which an extent of 87 sq.ft. was sold at the rate of Rs. 7/- per sq.ft.

11. Ex.R4 dated 30.3.1984, on the basis of which the Land Acquisition Officer arrived at the compensation at the rate of Rs. 35,398/- per acre

and Ex.C1 dated 31.8.1984 are prior to the date of 4(1) notification, whereas Exs.C2 and C5 are subsequent to the date of 4(1) notification.

Ex.C-2 is dated just one month after the date of 4(1) notification and the document deals with only 3022 sq.ft. of land. Ex.C-5 is four months after

the date of 4(1) notification. Ex.C-5 relates to the sale of a small extent of land, namely, 87 sq.ft. Hence, we do not propose to rely upon Exs.C-2

and C-5 sale deeds.

12. In so far as Ex.C-1 is concerned, it is dated 31.8.1984, which is later than Ex.R4 dated 30.3.1984, but nearer to the date of 4(1) notification.

Ex.C-1 sale deed relates to the sale of 40 cents and the lands covered in Ex.C-1 are situate in one of the survey numbers from which the lands

were acquired. Further, the learned Special Government Pleader is unable to place materials to keep Ex.C-1 outside the purview of consideration.

Therefore, taking Ex.C-1 dated 31.8.1984 into consideration, we are constrained to arrive at the valuation of the land acquired as on 24.7.1985.

13. The relevant factors to be considered for determining the compensation are (i) the state of development of acquired land and nearby areas at

the time of acquisition; and (ii) proximity and orientation with respect to any major highways (vide: Special Land Acquisition Officer Vs. Indian

Standard Metal Co. Ltd., . Therefore, we are taking into account the location of the lands acquired which plays a major role in determining the

value of lands acquired. In the instant case, it is stated that the lands acquired are situate in a mixed residential area, abutting the Salem Steel Plant

Bye-pass road which branches from Salem-Cuddalore Main Road. It is also stated that school and other industries are situate at a distance of

about a furlong from the lands acquired. These facts cannot be lightly disregarded while determining the value of the lands. For these reasons, we

do not have any hesitation to hold that the lands acquired would carry the potentiality for the increase of value, even though the lands are classified as dry manavari and hence, the increase of the value of lands acquired to Rs. 3/- per sq.ft. would meet the ends of justice.

14. Learned Special Government Pleader is not seriously challenging the enhancement of amount of compensation for trees by the learned

Subordinate Judge.

15. Accordingly, the order of the learned Subordinate Judge is modified to the effect that the value of lands acquired is fixed at Rs. 3/- per sq.ft.,

instead of Rs. 3.50 per sq.ft. In other respects, the order of learned Subordinate Judge stands. The appeal is partly allowed, however, in the

circumstances, without costs.

