

(2010) 12 MAD CK 0047

In the Madras High Court

Case No : Appeal Suit No. 829 of 2010 and M.P. No. 1 of 2010

The Land Acquisition Officer and The Special Tahsildar Adi
Dravidar Welfare

APPELLANT

Vs

Raja (Died), Kumar, Anbumani and Kaviyarasan

RESPONDENT

Date of Decision : 10-12-2010

Acts Referred:

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

Citation : (2010) 12 MAD CK 0047

Hon'ble Judges : R. Mala, J

Bench : Single Bench

Advocate : V. Ravi, Special Govt. Pleader, for the Appellant; P.S.
Kothandaraman, for R2 to R4, for the Respondent

Final Decision : Dismissed

Judgement

R. Mala, J.—This appeal has been arising out of the judgment and decree passed in L.A.O.P. No. 4 of 2002, on the file of the Additional

District Sessions Court, Fast Track Court, Tirupattur, on 26.07.2004 u/s 18 of the Land Acquisition Act.

2. The Appellant herein has acquired the lands belonging to the Respondents/claimants for the purpose of providing house sites to Adi Dravidars of

Eachampattu Village. The acquisition authority/the Appellant herein has fixed the compensation for the acquired lands at the rate of Rs. 42,481/-

per acre and also fixed Rs. 12,450/- for the value of the trees standing in the property and fixed the total compensation of Rs. 1,68,738/-. Against

which, the Respondents/claimants have made an objection. Hence, the issue was referred for determination by the jurisdictional Reference Court.

C.W.1 was examined on behalf of the Respondents/claimants before the

Reference Court and Ex.C1 was marked. On the side of the Appellant, R.W.1 was examined and Exs.R1 to R4 were marked. Considering the evidence and following the decision reported in The Special Tahsildar (LA) Vembakottai Reserved Project Scheme Unit No. 1 Vs. Chinna Veerasami Naicker and Others, , the Reference Court has followed the capitalisation method and fixed the income for the trees standing in the acquired lands and fixed the compensation at Rs. 4,65,000/-and as per law, it also fixed solatium at 30% and interest at 12%, after deducting the amount already paid (i.e.) Rs. 1,68,738/-and passed a judgment and decree. Against the same, the present appeal has been preferred.

3. After hearing the arguments of both sides counsel, the following points for consideration were framed:

1. Whether the Reference Court is correct in determining the compensation by adopting capitalisation method and computing annual income from the fruits and fixed the compensation?
2. Whether the compensation fixed by the Reference Court is fair and proper?
3. To what other reliefs, the Appellant is entitled to?
4. Points 1 to 3:

The learned Special Government Pleader for the Appellant submitted that the Reference Court has not followed the procedures laid down under law, while enhancing the compensation and the Reference Court ought to have fixed the compensation as per Ex.R1, the data land, which is situated adjacent to the lands acquired for providing plots to the Adi Dravidar people. He further submitted that the Reference Court had failed to consider Ex.R4-the topography of the property. He further submitted that in the similar matter, this Court has passed an order dated 31.08.2010 in A.S. No. 202 of 2008, where the Lordship confirmed the compensation at the rate of Rs. 1,500/-per cent as fair and proper and hence, he prayed for setting aside the decree and judgment passed by the Reference Court and also for allowing this appeal.

5. Per contra, the learned Counsel for the Respondents/claimants submitted that the trial Court/Reference Court had considered the dictum laid down in The Special Tahsildar (LA) Vembakottai Reserved Project Scheme Unit No. 1 Vs. Chinna Veerasami Naicker and Others, and fixed the

compensation, is fair and proper. Data land mentioned in Ex.R2 is only a vacant site, but whereas the claimants land is a coconut thope. Hence the

Reference Court has correctly considered the decision relied upon by the Respondents/claimants and fixed the compensation following the

capitalisation method. Hence, the judgment passed by the Reference Court does not warrant any interference and therefore, he prayed for

dismissing the appeal. He further submitted that the Reference Court while made a calculation, it committed a mistake by deducting the amount

twice. Hence, he wanted a liberty to move an application before the Reference Court for rectifying the calculation made by the Reference Court.

6. Considered the rival submissions made on both sides.

7. The properties situated in Vellore District, Tirupattur Taluk, Eachampattu Village, Survey Nos. 11/7 and 12/1A with an extent of 0.60.0 and

0.42.5 hectares respectively and the total extent is 1.02.5 hectares, which includes 54 fruit yielding coconut trees and 33 small coconut trees are

absolutely belonging to the Respondents. The Appellant herein has acquired the lands for providing plots for Adi Dravidar people and fixed the

compensation as Rs. 42,481/-per acre and also fixed Rs. 12,450/-for the value of the trees standing in the property. The Respondents/claimants

objected the same and hence the matter was referred to Reference Court. After the Reference Court has given opportunity to both sides to let in

oral and documentary evidence, it fixed the compensation by following capitalisation method for computing annual income from the fruits and

adopting the multiplier of 20 and enhanced the compensation from Rs. 1,68,738/-in to Rs. 4,65,000/-and also awarded 30% solatium and 12%

interest, after deducting the amount already paid (i.e.) Rs. 1,68,738/-and thus he passed a decree, which was under challenged.

8. It is appropriate to consider the judgment relied upon by the learned Special Government Pleader for the Appellant in A.S. No. 202 of 2008,

which was rendered by the Hon''ble Mr. Justice K. Chandru. The award No. 8/93-94 has been passed in respect of three claimants and against

the same, the two claimants (i.e.) Soundararajan and Balakrishnan have made an objection. Hence the reference has made before the jurisdictional

Reference Court and the same was taken as L.A.O.P. No. 5 of 2002 before the Reference Court. The learned Judge had considered the oral and

documentary evidence and then he fixed the compensation at Rs. 1,500/-per cent. Against which, the Appellant herein has preferred an appeal in

A.S. No. 202 of 2008. The Hon'ble Justice Mr. K. Chandru has accepted the compensation fixed by the Reference Court and dismissed the

appeal. So the learned Special Government Pleader for the Appellant wants to fix the value of Rs. 1,500/-per cent.

9. Considering the reference and decision along with the case in our hand, the above judgment in A.S. No. 202 of 2008, is related to the property

situated in Survey No. 11/5B with an extent 0.20.0 hectares, has only one tree (i.e.) one small coconut tree and its value has been fixed at Rs. 50/-

. So the Reference Court has considered the value of the land and fixed Rs. 1,500/-per cent, which was confirmed by this Court.

10. But the case in our hand, the total extent of the land is 1.02.5 hectares. Admittedly, in that land, 54 fruit yielding coconut trees and 33 small

coconut trees were situated. In para-5 of the award, it was specifically mentioned. So there is no dispute in respect of the extent and coconut trees

stand in the property acquired.

11. At this juncture, it is appropriate to consider on the part of the Court to decide whether this Court has to accept the arguments advanced by

the learned Special Government Pleader for the Appellant and also fix Rs. 1,500/-per cent as per the judgment in A.S. No. 202 of 2008, or to

follow the dictum laid down in The Special Tahsildar (LA) Vembakottai Reserved Project Scheme Unit No. 1 Vs. Chinna Veerasami Naicker and

Others, (i.e.) capitalisation method for computing annual income from the fruits. Admittedly, the lands acquired in coconut thope have 54 fruit

yielding coconut trees and 33 small coconut trees. But as per the dictum laid down in The Special Tahsildar (LA) Vembakottai Reserved Project

Scheme Unit No. 1 Vs. Chinna Veerasami Naicker and Others, , which was the method adopting to assess the market value by capitalisation

method, since the lands are thope lands (i.e.) orchard lands, the lands bearing trees. In the decision reported in The State of Madras Vs. Rev.

Brother Joseph, , the Supreme Court has held in the case of coconut and orange thope that capitalisation of the net income of 20 years purchase

was a fair method for arriving at the market value. So considering the above citation, the Reference Court has fixed and calculated the value of 54

trees at Rs. 400/-per annum per tree for 20 years. Likewise, for 33 trees, it has fixed the income from the trees at Rs. 50/-per tree for 20 years

and came to the conclusion and fixed the total price at Rs. 4,65,000/-and awarded solatium at 30% as per Section 23(2) and interest at 12% as

per Section 23(1A) of the Land Acquisition Act.

12. The learned Special Government Pleader for the Appellant submitted that there is no evidence to show that each fruit yielding trees will earn

Rs. 400/-per annum. At this juncture, it is appropriate to consider the evidence of C.W.1, who has stated that one coconut tree has yielded 75 to

150 coconuts per annum and the income will be Rs. 500 to Rs. 550/-. Admittedly, no cross-examination was done by the Land Acquisition

Officer/the Appellant herein. So considering the evidence of C.W.1, I am of the opinion that the Reference Court had considered this aspect in

proper perspective and fixed the compensation as per capitalisation method. So I am of the view that since the property acquired is a coconut

thope, the Reference Court has correct in following the dictum laid down and assessed the compensation on the basis of the capitalisation method.

So the compensation fixed by the Reference Court is fair and proper and it does not warrant any interference. So I do not find infirmity in the order

passed by the Reference Court and hence, the judgment and decree passed by the Reference Court is hereby confirmed. Hence the Appellant is

not entitled to any reliefs. This appeal deserves to be dismissed.

13. In fine,

½ The Appeal Suit is dismissed.

½ No costs.

½ The connected miscellaneous petition is closed.