
(2004) 09 MAD CK 0140
In the Madras High Court
Case No : A.S. No. 251 of 1994

The Revenue Divisional Officer	Vs	APPELLANT
K. Subbanna Gounder and Others		RESPONDENT

Date of Decision : 24-09-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2004) 5 CTC 595 : (2004) 4 LW 488

Hon'ble Judges : M. Thanikachalam, J; M. Karpagavinayagam, J

Bench : Division Bench

Advocate : R. Asokan, Addl. G.P, for the Appellant; C. Prakasam, for the Respondent

Final Decision : Allowed

Judgement

M. Karpagavinayagam, J.—The Notification u/s 4(1) of the Land Acquisition Act was published on 25.6.1986 for the public purpose, namely the acquisition of lands for the erection of 230 k.v. Sub-Station by the Tamil Nadu Electricity Board in the lands at Arasur Village, Coimbatore, acquiring 26.21 acres in S.F.No.57/3.C, etc.

2. The Land Acquisition Officer in his award dated 15.7.1989, awarded the compensation at the rate of Rs.11,682/- per acre, even though the claim made by the land owners was at Rs.1,50,000/- per acre. On reference, the Sub-Court, by its award dated 28.10.1993 in L.A.O.P.No.61 of 1992, enhanced the compensation at Rs.1,000/- per cent. Aggrieved by the same, the referring officer, namely the Revenue Divisional Officer has filed this appeal.

3. Though the appeal has been filed on the ground that the quantum of compensation enhanced is arbitrary and without any basis, learned Additional Government Pleader would ultimately submit that even assuming that the quantum of compensation was correctly decided by the Sub-Court, the developmental charges at 33% from the total compensation had not been

deducted, despite the mandatory guidelines given by the Supreme Court in various decisions.

4. Learned Additional Government Pleader would cite the following authorities in support of his submissions:

(a) Hasanali Khanbhai and Sons and Others Vs. State of Gujarat, ;

(b) K. Vasundara Devi Vs. Revenue Divisional Officer (LAO), ;

(c) K.S. Shivadevamma and others Vs. Assistant Commissioner and Land Acquisition Officer and another, ;

(d) Smt. Basavva and others Vs. Special Land Acquisition Officer and others, ;

(e) Land Acquisition Officer and Sub-Collector, Gadwal Vs. Smt. Sreelatha Bhoopal and another, and

(f) State of Jammu & Kashmir Vs. Mohammad Mateen Wani and Others, .

5. We have heard learned Additional Government Pleader appearing for the appellant (Revenue Divisional Officer) as well as the learned counsel for the respondents (claimants).

6. Having considered the submissions of learned counsel for the parties and having regard to the principles laid down by the Supreme Court in the matter of deducting the developmental charges from the total compensation, it is to be pointed out that the Supreme Court would hold as a general rule that 33-1/3 % is required to be deducted from the total compensation as developmental charges. Thus, the dicta had been laid down in respect of the lands which were not developed.

7. It is the ratio decided by the Supreme Court that where the development had already taken place, appropriate deduction may be made, taking into consideration the facts and circumstances.

8. The principles laid down in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, were distinguished by the Supreme Court in K. Vasundara Devi Vs. Revenue Divisional Officer (LAO), and in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, , the Supreme Court would hold that since the lands are in developed area, no deduction towards the developmental charges be made.

9. Thus, the law laid down by the Supreme Court in the cases referred to above, would deal with only about the deduction of developmental charges in respect of under-developed large extent of lands. In some cases, the Supreme Court would hold on facts that for developmental charges, the deduction between 33-1/3 % and 53 % is valid and in other cases, even 63% of deduction was upheld, in view of the necessity for making development in the area.

10. Therefore, the deduction of 33-1/3 % or more from the total compensation as developmental charges, is purely depending upon the facts of each and every case.

11. In the instant case, the lands were acquired for the purpose of erecting electricity sub-station. The evidence adduced by the claimants before the trial Court, as referred to in the judgment of the trial Court, is that the area is a developed area and the claimants' properties are situated in a place which is a very busy industrial locality and that very adjacent to the acquired lands of the claimants, many lay-outs were approved as house-sites and many well-constructed houses, "kalyana mandapam", "Vinayagar" Temple, "Amman" Temple are also in existence near to the acquired lands.

12. Therefore, there is no difficulty in holding that the acquired lands are in a developed area, and as such, it is not necessary to deduct the development charges at 33-1/3 % from the total compensation, which has been fixed as a general rule by the Supreme Court for the under-developed area.

13. Even according to learned Additional Government Pleader, under Ex.A-1 dated 12.6.1986, the lands were sold at the rate of Rs.1,100/- per cent. Even if the same is taken into consideration, 33% would be Rs.350/- and as such, Rs.350/- could be deducted from Rs.1,100/- per cent.

14. As indicated above, it is not a straight-jacket formula. In our view, the deduction of Rs.250/- from Rs.1,100/- per cent, would meet the ends of justice. Of course, learned Additional Government Pleader stated that the acquired lands are situated at a considerable distance from the developed area in which the houses, industries, Temples, etc. are situated. Hence, in the light of the abovesaid fact, we deem it fit to fix to the compensation after deducting the amount towards developmental charges.

15. Accordingly, we fix the quantum of compensation at Rs.850/- per cent for the lands in question, with usual solatium and interest which the claimants are entitled to under law. Except this modification, other findings rendered by the trial Court are confirmed.

16. The appeal is allowed to the extent indicated above. No costs.