

(2006) 01 MAD CK 0126

In the Madras High Court

Case No : A.S. No. 1011 of 2005 and C.M.P. No. 20792 of 2005

The Special Deputy Collector (Land Acquisition), Chennai
Metropolitan Development Authority

APPELLANT

Vs

A.T. Varadarajan

RESPONDENT

Date of Decision : 04-01-2006

Acts Referred:

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

Citation : (2007) 1 MLJ 838

Hon'ble Judges : P.D. Dinakaran, J; K. Mohan Ram, J

Bench : Division Bench

Advocate : R. Ashokan, A.G.P, for the Appellant; K.M. Venugopal, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The referring officer is the appellant herein.

2.1. The Government of Tamil Nadu acquired large extent of lands situate in Velachery, Chennai including an extent of 0.78.25 acres (34085.7 sq.ft.) comprised in Survey Nos.437/1A and 456/9 belonging to the claimant/respondent herein. The Land Acquisition Officer fixed the value of the land at Rs.76/- per sq.ft. and the referring officer passed award No.1/2003 fixing the compensation at Rs.43,05,495/-. The claimant filed an objection stating that the land would fetch Rs.24 lakhs per ground and requested to make a reference.

2.2. Accordingly, the matter was referred u/s 18 of the Land Acquisition Act, 1894 which was taken on file as L.A.O.P.No.38 of 2003 on the file of City Civil Court, Chennai. Learned Assistant Judge, City Civil Court, Chennai, on the basis of evidence let in by both the parties, enhanced the market value of the land at Rs.484/- per sq.ft. besides fixing the value of tree at Rs.902/- and awarding solatium at 30% and additional market value at 12% p.a. Aggrieved by the judgment and decree of the learned Assistant Judge, the referring officer has

preferred this appeal.

3. The core contention of learned Additional Government Pleader is that the market value enhanced from Rs.76/- per sq. ft. to Rs.484/- per sq. ft. is exorbitant. According to him, the learned Assistant Judge has not taken into consideration the data land relied upon by the Land Acquisition Officer.

4. Mr.K.M.Venugopal, learned counsel appearing for the respondent/claimant, on the other hand, submitted that the learned Assistant Judge, on the basis of evidence on record, has come to the correct conclusion and fixed the market value at Rs.484/- per sq. ft. which cannot be said to be excessive or exorbitant.

5. We have given our careful consideration to the submissions made by counsel for both the sides. Admittedly, the land was acquired for the purpose of widening Velachery Bye-pass Road. The claimant has not disputed the acquisition proceedings, but questioned the quantum of compensation fixed by the Land Acquisition Officer which resulted in the reference u/s 18 of the Land Acquisition Act.

6. Before the learned Assistant Judge, the Land Acquisition Officer relied upon Ex.R-3 sale deed in support of fixing the market value at Rs.76/- per sq. ft. whereas the claimant produced sale deeds, Exs.C-1 to C-8 and C-10 and contended that the land would fetch Rs.2000/- per sq. ft. The learned Assistant Judge has taken into consideration Exs.C1 to C5 and found that the land sold under Ex.C5 is situate abutting the road and hence, the value of land mentioned in Ex.C5 would reflect the actual cost of the lands acquired.

7. Further, Ex.C-5 sale deed is dated 19.3.1997 and notification u/s 4(1) of the Land Acquisition Act in the instant case was issued on 25.2.2000. The learned Assistant Judge added the appreciation at the rate of 10% for every subsequent year after the base year in the light of the decision of Supreme Court in The Special Land Acquisition Officer, BTDA, Bagalkot Vs. Mohd. Hanif Sahib Bawa Sahib, and fixed the market value at Rs.484/- per sq.ft. in respect of the lands acquired. Further, the learned Assistant Judge has also noticed Ex.C-4 under which land was sold at Rs.489/- per sq. ft. in the year 1999.

8. Though learned Additional Government Pleader submitted that the data land in Ex.R-3 has not been considered by the learned Assistant Judge, the learned Assistant Judge has recorded a finding that the data land in survey No.651 is situate about 9 survey numbers away from the road and the land abutting main road would normally fetch more price than the land far away from the road and hence, the sale deed Ex.R-3 would not reflect the actual market value of the lands acquired.

9. We are therefore of the view that the learned Assistant Judge, on the basis of evidence on record, has come to the correct conclusion and enhanced the market value to Rs.484/- per sq. ft. which cannot be said to be excessive or exorbitant. In this view of the matter, the appeal is liable to be dismissed and accordingly, it

is dismissed. No costs. Connected C.M.P. is closed.