

(2008) 09 MAD CK 0007
In the Madras High Court
Case No : A.S. No. 457 of 1999

The Special Tahsildar, Adi Dravidar Welfare	APPELLANT
Vs	
Kandasamy and another	RESPONDENT

Date of Decision : 24-09-2008

Acts Referred:

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

Citation : (2009) 1 CTC 609

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : V. Ravi, Special Government Pleader, for the Appellant; C. Vediappan and Mr. C. Selvaraju, for the Respondent

Judgement

G. Rajasuria, J.—This Appeal is focussed as against the judgment and decree dated 26.10.1995 passed in L.A.O.P. No. 10 of 1993 by the

Additional Subordinate Judge, Salem. For convenience sake, the parties are referred to here under as per their litigate status before the Trial

Court. Heard the learned counsel appearing for the parties.

2. The nut-shell facts, which are absolutely necessary and germane for the disposal of this Appeal would run thus:

The Government vide Notification dated 20.3.1991 made u/s 4(1) of the Land Acquisition Act, intended to acquire the land measuring an extent of

2.99 acres in Survey Nos. 104/4, 104/5 in Sukkampatti Village and S. No. 59/2A in Vellayampati Village, for the purpose of providing house

sites to Adi Dravidas and Arunthathiars. After complying with the procedures, the Land Acquisition Officer acquired the land and passed an award

dated 23.3.1993 assessing the compensation in a sum of Rs. 25,001/- per acre.

3. Being aggrieved by such awarding of the compensation, the land owners got

the matter referred to the Sub-Court u/s 18 of the Land Acquisition Act.

4. During enquiry, before the Trial Court the claimants examined themselves, as C.W.1 and C.W.2 apart from examining C.W.3 and C.W.4 and

Ex. C1 to Ex. C8 were marked on the claimants' side. No one was examined on the respondent's side but only Exs. R1 to R3 were marked.

5. Ultimately the Sub-Court enhanced the compensation from Rs. 25,001/- per acre to Rs. 75,000/- per acre.

6. Being dissatisfied with such awarding of enhancement, the Government preferred this Appeal on various grounds, the pith and marrow of them would run thus:

The Sub-Court enhanced the compensation abnormally without adhering to any well recognised norms. Absolutely there is no reason given for

enhancing the compensation over and above what is contemplated as per Item 9 in the sales particulars.

Accordingly, the Government prayed for setting aside the judgment and decree of the Sub-Court.

7. The point for consideration is as to whether the Sub-Court was justified in enhancing the compensation from Rs. 25,001/- per acre to Rs.

75,000/- per acre.

8. The learned Government Pleader placing reliance on the grounds of Appeal reiterated the stand of the Government that the lower Court after

disregarding Ex. C1 to Ex. C7 correctly, fell into error in placing reliance on item No. 9-in the sales particulars gathered by the Land Acquisition

Officer and over and above that the Trial Court enhanced the compensation to Rs. 75,000/- without any basis.

9. Whereas, the learned counsel for the land owners would develop his argument to the effect that the compensation awarded by the Sub-Court is

quite reasonable as the land acquired is situated very near to Salem Main Road and the lower Court's order warrants no interference.

10. The perusal of the judgment of the lower Court would exemplify that it has not relied upon Ex. C1 to Ex. C7 for reasons to be recorded

therein. Ex. C4 is the sale deed dated 16.7.1991, which emerged subsequent to the publication of Section 4(1) Notification on 20.3.1991 and as

such, Ex. C4 cannot be relied on as the safe-criterion to assess the

compensation. Ex. C1 is only an agreement to sell, which also has not been relied upon by the lower Court and no interference is required under that count. Ex. C2 is the sale deed dated 8.6.1989 which contemplated a sale of 2 cents of land in a sum of Rs. 800/-, whereas as revealed by Ex. C8, the Special Deputy Collector's order, the said sale as contained in Ex. C2 was under valued and it should have been valued in a sum of Rs. 1,00,000/-. The lower Court has not relied upon it as there are prevaricative stands between the owner of the land contemplated under Ex. C2 and the authority concerned. Ex. C3-the sale deed dated 7.3.1990 is relating to a pacca Housing plot situated in the habitation colony itself measuring an extent of three cents of land and it was sold for a sum of Rs. 8600/-, which means per cent was sold for a sum of Rs. 2,866/- which ultimately connote that per acre was valued in a sum of Rs. 2,86,000/- and odd. The lower Court was right in not placing reliance on it, as here the land acquired is only an agricultural land and not a plot.

11. No doubt for the purpose of assessing the compensation the potential plot value of the land could be taken into account, keeping in view the purpose of land acquired. Even though in this case the land acquired is for the purpose of carving out plots so as to allot the same to the landless Adi Dravida Community people, nonetheless there is no clinching evidence to demonstrate as to what would be its potential plot value. On the other hand the Sub-Court realising the factual position among the sales statistics correctly picked up and chosen Item No. 9, which is referring to a higher value than Item 2, which was relied on by the Land Acquisition Officer.

12. No doubt the land owners should be favoured with the highest value available as per evidence on record. From the analysis of item 9 as found in Ex. R3, it is clear that per acre was valued in a sum of Rs. 54,054/- as on 14.3.1989. Here the land acquired which is situated in S. No. 104/4, 104/5 and 59/2-A in Sukkampatti and Vellaiyampatti Villages are all agricultural lands only and in fact the area contemplated under the said Item No. 9 is referring to the land in Survey No. 105/4 and it is obvious that it is nearer to Survey No. 104/4, in which a part of the land was acquired by the Government, It appears from the Government side, there were objections for placing reliance on item No. 9 on the ground that the said sale emerged out of rivalry. But the Sub-Court rejected those objections as baseless

and I am having no reason to disagree with the findings of the Sub-Court. Having correctly chosen Item No. 9 in Ex. A3, as the safe criterion for assessing the compensation, the Sub-Court fell into error in simply enhancing the value from Rs. 25,001/- to Rs. 75,000/- per acre on the sole ground that two years got lapsed from the date of emergence of the said Item No. 9 sale.

13. At this juncture my mind is redolent with the decision of the Honourable Apex Court, reported in Delhi Development Authority Vs. Bali Ram

Sharma and Others, certain excerpts from it would run thus:

6. The lands which are the subject-matter of these Appeals are acquired for the same purpose as in the aforementioned Appeals, but the

notification u/s 4(1) of the Act was issued on 25.2.1981 i.e. subsequent to Section 4(1) notification dated 17.11.1980. Obviously, there would be

escalation of prices in regard to these lands. Hence, we think it just and appropriate to give 5% increase in the market value in respect of the lands

in these Appeals. In the result these Appeals are also allowed and the impugned judgments are modified by reducing the amount of compensation

from Rs. 345 per sq yard (amounting to Rs. 3,45,000 per bigha) to Rs. 76,55 per bigha + 5% escalation. The respondents are entitled to statutory

benefits available under the Act based on the amount of compensation as modified above. No costs.

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7. The land which is the subject-matter of this Appeal is acquired for the purpose as in the aforementioned Appeals, but the notification u/s 4(1) of

the Act was issued on 24.11.1981 i.e. subsequent to Section 4(1) notification dated 17.11.1980. Obviously, there would be escalation of price in

regard to this land. Hence, we think it just and appropriate to give 10% increase in the market value in respect of the land in this Appeal. In the

result this Appeal is allowed and the impugned judgment is modified by reducing the amount of compensation from Rs. 345 per sq yard (amounting

to Rs. 3,45,000 per bigha) to Rs. 76,550 per bigha + 10% escalation. The respondent is entitled to statutory benefits available under the Act

based on the amount of compensation as modified above. No costs.

14. A mere perusal of the above judgment would clearly exemplify and demonstrate that for each year 10% increase could be given. But, here the

Sub-Court failed to adhere to such a formula. Accordingly, if worked out, the enhancement for the two years period between item 9 sale deed

dated 14.3.1989 and the publication of Section 4(1) Notification dated 20.3.1991, could only be considered. As such, the following formula

emerges:

It is therefore clear that the appropriate compensation as on the date of 4(1) Notification dated 20.3.1991 could only be Rs. 65,405/- per acre.

For awarding compensation to agricultural land, after taking into account its potential plot value naturally 1/3rd has to be deducted towards

development charges in view of the following decisions:

- (1) The Deputy Director, Land Acquisition Vs. Malla Atchinaidu and Others,
- (2) Ravinder Narain and Another Vs. Union of India (UOI),
- (3) Nelson Fernandes and Others Vs. Special Land Acquisition Officer, South Goa and Others,
- (4) Lucknow Development Authority Vs. Krishna Gopal Lahoti and Others,
- (5) Smt. Basavva and others Vs. Special Land Acquisition Officer and others,

However, here the potential plot value of the land acquired could not be assessed for the reasons adhered to supra. As such the agricultural land

value itself is being adopted and in such a case deduction towards development charges does not arise. Accordingly, the enhanced value of Rs.

75,000/- per acre awarded by the Sub-Court shall stand reduced to Rs. 65,405/-. It is hereby made clear that the land owners are entitled to

other statutory benefits as per law.

This Appeal is ordered accordingly. No costs.