

(2009) 04 MAD CK 0114
In the Madras High Court
Case No : A.S. No. 185 of 1998

The Special Tahsildar, Adi Dravidar Welfare	APPELLANT
Vs	
Krishnasamy Naidu, Velusamy Naidu and Sarojini	RESPONDENT

Date of Decision : 30-04-2009

Acts Referred:

Citation : (2009) 04 MAD CK 0114

Hon'ble Judges : R.S. Ramanathan, J

Bench : Single Bench

Advocate : S.C. Herold Singh, Addl. Govt. Pleader, for the Appellant; V. Meenakshisundram, for 1st and 2nd Respondent, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Ramanathan, J.—The Special Tasildhar, Adi Dravidar Welfare, Tenkasi, is the appellant herein.

2. Land in Survey No. 591/1A, 591/2 of an extent of 0.08.5 and 1.37.0, totaling 1.45.5 hectares in Chinthamani village, Tenkasi Taluk and other

lands were acquired for the purpose of providing house sites to Adi-Dravidars under 4(1) notification dated 27.09.89. The Land Acquisition

Officer after complying with the legal formalities passed an award in Award Proceedings No. 3/90-91 dated 23.03.1991 fixed the market value at

Rs. 120/- per Cent. The claimants not being satisfied with the award passed by the Land Acquisition Officer sought for reference u/s 18 of the Act

and reference was made in L.A.O.P. No. 87 of 1994, on the file of the principal Sub Judge, Tenkasi, and the learned Sub Judge after considering

the document viz., the sale deed filed by the claimants and the oral evidence of both parties, enhanced the value of the acquired land to Rs. 1,000/-

per Cent. Aggrieved by the same, this appeal is filed by the appellant.

3. The point for consideration in this appeal is whether the enhancement of compensation by the lower Court is justified or not?

4. Mr. S.C. Herold Singh, the learned Additional Government Pleader, appearing for the State contended that the appellant after considering 40

sale deeds selected land in Survey No. 1456, which according to him, matched with the acquired land in all aspects and fixed the market value at

Rs. 120/- per Cent. He further contended that the fixation of market value at Rs. 1,000/- per Cent by the lower Court is highly arbitrary and the

award of the Land Acquisition Officer must be confirmed.

5. It is seen from the award proceedings that the appellant has considered 40 sale deeds and Item No. 34 the data land was selected by him, for

fixing the market value. It is seen from the topography sketch available that the data land in Survey No. 1586 is situate 0.90 Km. away from the

acquired land and the acquired land is also having access to the main road.

6. Before the lower Court, the claimants relied upon Ex.C1, sale deed in respect of Survey No. 172/3 of an extent of 40 Cents and that land is

situate at a distance of 2.80 kms. away from the acquired land. But it is seen from the topography sketch, the land in Survey No. 172 covered

under Ex.C1 is also abutting the road and it has got the same advantage of the acquired land and that land in Ex.C1 was sold on 08.12.1988

nearly 9 months prior to the issuance of 4(1) notification at the rate of Rs. 1,275/- per Cent.

7. It is also seen from the topography sketch, the data land has no access and it is abutting the railway line and therefore, in my opinion, the

appellant should not have considered the data land for fixing the market value of the acquired land. It is seen from the evidence of P.W.1 that the

acquired land is situate on the northern side of Tenkasi Railway Station and on the eastern side there is Udaiyar street and on the western side

Mangammal Salai. The witness on the side of the appellant also did not deny that habitations are there near the acquired land and it is easily

accessible to bus stand, hospital and Railway station. As stated supra, land in Survey No. 173/2, though it is situate at a distance of 2 K.M. away

from the acquired land, it has the same advantage of that of the acquired land and that was sold for a sum of Rs. 1,275/- per Cent, therefore, in my

opinion, the lower Court is justified in taking into consideration the market value of the land covered under Ex.C1 as a guidance for fixing the

market value of the acquired land and has rightly fixed the market value at Rs. 1,000/- per Cent after giving due allowance towards development

charges. Therefore, I do not see any reason to interfere with the finding of the lower Court.

8. In the result, the appeal is dismissed and the decree and judgment of the lower court is confirmed. There is no order as to costs.