
(2009) 10 MAD CK 0118

In the Madras High Court

Case No : C.R.P. NPD. No. 1393 of 2008 and M.P. No. 1 of 2008

The Special Tahsildar, Adi Dravidar Welfare Department

APPELLANT

Vs

Namadeva Reddiar

RESPONDENT

Date of Decision : 01-10-2009

Acts Referred:

Harijans Welfare Scheme Act, 1978 — Section 4(1)

Citation : (2009) 10 MAD CK 0118

Hon'ble Judges : M. Sathyanarayanan, J

Bench : Single Bench

Advocate : V. Srikanth, Addl. Govt. Pleader CS assisted by P. Santhi Rakkappan, for the Appellant; N. Suresh, for the Respondent

Judgement

M. Sathyanarayanan, J.—The Land Acquisition Officer namely the Special Tahsildar for Adi Dravidar welfare Department, Dindivanam—the

petitioner, aggrieved by the enhancement of compensation made in C.M.A. No. 7/1999 by the Court of Principal Subordinate Judge Dindivanam

has preferred this appeal.

2. The extent of land measuring 3.36.0 hectares situated in Koraloore village, Dindivanam Taluk was acquired under the provisions of Tamil Nadu

Acquisition of land for Harijans Welfare Scheme Act, 1978 (in short, Tamil Nadu Act, No. 31 of 1978) for provision of house sites to Harijans of

the said village.

3. The petitioner herein has passed an award in No. 4/98 -99 dated 17.11.1998 fixing the market value of the above said land to Rs. 5,17,870

and solatium of Rs. 77,680/- in all awarded Rs. 5,95,550 payable to the land owners. In so far as the respondent herein is concerned, in respect

of land acquired from him, a sum of Rs. 35,449 was awarded.

4.The respondent herein, not satisfied with the amount of compensation awarded by the Land Acquisition Officer/Revision petitioner herein,

preferred an appeal in C.M.A. No. 7/99 on the file of Principal SubCourt, Dindivanam. Other claimants also preferred appeals in C.M.A.Nos.6

and 8 of 1999

5. The respondent during the course of an enquiry in the appeal has marked the document-registered sale deed dated 01.09.1999 under which

one Sathyamurthy Reddy has sold the land in favour of the respondent herein. The lower Court has considered the sale deed and found that the

said document came into existence during the period prior to the terms of Section 4(1) notification dated 06.04.1998.

6. Therefore, on the basis of the said document, the lower appellant Court has fixed the compensation at Rs. 1150/- per cent and accordingly

enhanced the compensation. The Land Acquisition Officer aggrieved by the same, has preferred this petition.

7. Heard the submissions of Mr. V. Srikanth, Learned Additional, Government Pleader (CS) assisted by Tmt. P. Santhi Rakkappan, Learned

Government advocate for the Revision petitioner and Mr.N.Suresh, learned Counsel for the respondent. This Court has also perused to materials

available on record in the form of typed set of papers. A perusal of the award passed by the Land Acquisition Officer would reveal that the

acquired lands were Punja lands and have been classified as dry lands in the revenue records. The Land Acquisition Officer has considered the

data sale deeds relating to 16 sale deed transactions and rejected nine sale deeds in respect of sale deeds in Serial Nos. 7, 9 and 11. Though the

Land Acquisition Officer found that the nature of the lands are equivalent, since the small extent of lands were sold for higher sale consideration, he

has rejected those sale deeds. In so far as the sale deeds produced by the respondent, which has been marked as claimant Ex.1, the Land

Acquisition Officer has rejected the same on the ground that the respondent has purposefully purchased the said lands for higher sale

consideration.

8. It is to be borne in mind that Section 4(1) notification came to be issued on 06.04.1998 and the sale deed notification came into existence on

22.12.1997. Therefore, it cannot be said that after notifying the acquisition of lands,

the respondent had purchased the lands in the nearby vicinity for the same survey number for higher sale consideration. Therefore, the submissions made by Learned Additional Government Pleader in Civil Suit on that aspect on the face of it is unsustainable.

9. The learned Additional Government Pleader has further submitted that no deductions have been made towards the development charges while

enhancing the amount of compensation by the lower appellate Court that therefore the judgment passed by the lower appellate Court is liable to be

set-aside and on that ground the learned Additional Government Pleader (CS) in support of his submissions placed reliance on the judgment of the

Honourable Supreme court of India, reported in The Land Acquisition Officer, Kammarapally Village, Nizamabad District, Andhra Pradesh Vs.

Nookala Rajamallu and Others, .

10. In the above said judgment, it has been held by the Honourable Supreme Court that where large area is the subject matter of acquisition, the

rate which small the plots are sold cannot be stated to be safe criteria. The Honourable Supreme Court has also held down the proposition that the

rates fixed for small plots of land can be taken into consideration while fixing the quantum of compensation, where there is no other material and in

such cases, necessary deduction/adjustment have to be made while determining prices. In so far as the deductions to be made towards

development charges, the Honourable Supreme Court of India in the facts of the said case found that the acquired lands were classified as

agricultural lands and therefore it requires development and in that regard, it has fixed the amount towards the development charges as 53%

11. In the case on hand, admittedly, the punja lands are classified as dry lands. The Land Acquisition Officer has rejected 3 sale deeds on the

ground that a small plots have been sold for a higher costs even though he found that the classification of the land is liable to be extra or are the

same. Admittedly, under claimant's exhibit the registered sale dated 22.12.1997, respondent herein, had purchased 0.50 cents of land in Survey

No. 55/1 by means of registered sale deed for a sum of Rs. 57,500/-. It is not disputed that the said land, which is situated in the same Survey

number as that of the acquired lands. The reason stated by the Land Acquisition Officer was that the respondent has purposefully purchased the

land for higher sale consideration, lack common sense as Section 4(1) notification came into existence on 06.04.1990 and whereas, the above said land was purchased as early as on 22.12.1997. Therefore, it cannot be said that after notifying the land acquisition proceedings, the respondent has purchased the nearby land for higher sale consideration. Therefore, the enhancement of compensation by lower appellate Court in so far as the land acquired from the respondent needs no interference.

12. With regard to the contention of learned Government Advocate (CS) that no development charges have been deducted by the lower appellate Court, this Court is of the considered view that admittedly the acquisition of the lands was not classified as agricultural lands and only dry lands, not fit for cultivation.

13. The data sale deeds relating to this case also disclose that lands in question have not been classified as agricultural lands. Therefore, the deduction towards the development charges, is not necessary.

14. This Court has carefully considered the materials available on record and finds that there is no error in exercise of jurisdiction or illegality or error apparent on the face of the record in the judgment passed by the lower appellate Court. The present revision lacks merit and the same is dismissed. But, in the circumstances, there will be no order as to costs.