

(2008) 08 MAD CK 0006
In the Madras High Court
Case No : A.S. No. 407 of 1999

The Special Tahsildar (Adi Dravidar Welfare), Gudiyatham	APPELLANT
Vs	
G.N. Govinda Chetty and 4 others	RESPONDENT

Date of Decision : 21-08-2008

Acts Referred:

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

Citation : (2008) 08 MAD CK 0006

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : V. Ravi, Additional Government Pleader AS, for the Appellant; N. Chandran, for the Respondent

Judgement

G. Rajasuria, J.—This appeal by the Land Acquisition Officer is focussed as against the judgment and decree dated 18.11.1998 passed by

the learned Subordinate Judge, Vellore in LAOP No.36 of 1997. For convenience sake, the parties are referred to here under according to their

litigative status before the trial Court. Heard the learned counsel appearing for the parties.

2. The nutshell facts which are absolutely necessary and germane for the disposal of this appeal would run thus:

The Government effected publication u/s 4(1) of the Land Acquisition Act for acquiring the lands measuring an extent of 1.12.5 hectares in S. No.

329/2B in D.P.Palayam Village, Gudiyatham Taluk for the purpose of providing land to Adi Dravidar community people. After complying with the

procedures, the Land Acquisition Officer acquired the land and assessed the compensation in a sum of Rs.300/- per cent. 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.

3. During enquiry before the Sub Court, on the side of the claimant, C.W. 1 and C.w.2 were examined and Exs.A1 and A2 were marked. On the

side of the respondent, Exs.B1 and B2 were marked.

4. Ultimately, the Sub Court enhanced the compensation to the tune of Rs.250/- per cent.

5. Being dissatisfied with such enhancement, the Land Acquisition Officer preferred this appeal on various grounds, the gist and kernel of them

would run thus:

The Sub Court simply enhanced the compensation upto Rs.250/- per cent without any objective basis. Accordingly, the appellant prayed for

reducing the compensation.

6. The point for consideration is as to whether the Reference Court enhanced the compensation without adhering to objective standard.

7. The learned Additional Government Pleader (A.S.) placing reliance on the grounds of appeal would develop his argument to the effect that

without any objective basis, the compensation in a sum of Rs.250/- was fixed per cent; over and above, a sum of Rs. 1,00,000/-was awarded

towards acquisition of the well and for trees also, the compensation was enhanced without any valid reason, whereas the learned counsel for the

land owners would submit that item 23 of the sales statistics would highlight that one cent of land was sold for a sum of Rs. 1,666/- and in such a

case, if that standard is applied, the compensation awarded by the Reference Court would be very low and accordingly, he prays that there need

not be any interference with the lower Court's order. He would also submit that for the well, the trial Court ordered a sum of Rs. 1,00,000/-,

which also could be left uninterfered with.

8. A perusal of the judgment of the trial Court would demonstrate that the trial Court after discussing the facts concerned, simply fixed the

compensation in a sum of Rs.250/-per cent of land without referring to any item of sale in the sales statistics Ex.B2 or any other document.

9. The learned counsel for the land owner would submit that even though the Reference Court might not have stated reasons, this Court could

consider the fact that the land acquired is for allotting house sites to the Adi Dravidar community people and it is in a developing area.

10. A perusal of the sales statistics as gathered by the Land Acquisition Officer would reveal that the item 2 therein is relating to a punja land

measuring an extent of 17 cents which was sold for a sum of Rs.4,000/-on 21.02.1991 so to say a few months anterior to Section 4(1)

Notification dated 18.12.1991. Accordingly if worked out, the said lands have been sold at the rate of Rs.235/- per cent, whereas the Reference

Court fixed the compensation in a sum of Rs.250/- per cent.

11. The other items of sale as found in Ex.B1 are all not capable of being equated with the land acquired and it is quite obvious from the perusal of

it. Neither the learned counsel for the land owners nor the learned Additional Government Pleader could pin point out as to any other item in

Ex.B1 could be relied upon as a safe guide for assessing the compensation. In fact, item 23 relied on by the land owners is referring to a smaller

plot area of six cents situated in S. No. 39/9, which is far away from the land acquired as per the Rough Sketch Ex.B2 and it was relating to a

smaller extent of plot and as such, that cannot be taken as the criterion for assessing the compensation. Now the question arises as to whether the

value as contemplated in item 2 could be adopted here. The item 2 refers to punja land only and not to any plot and in such a case, for the

agricultural land acquired herein, the same value could be given without any deduction, as there is no safe criterion to arrive at a conclusion as to

what would be the potential plot value of the land acquired.

12. Hence I am of the considered opinion that awarding a sum of Rs.235/- per cent for the land acquired would meet the ends of justice and no

development charges also need be deducted from that, as only agricultural value of the land is taken into consideration for assessing the

compensation. No doubt, I am fully aware of the following decisions of the Hon"ble Apex Court which would highlight that there should be

deduction towards development charges if potential plot value of the land is taken into account. But here in this case, no such potential value of the

land is taken into consideration and hence without deduction, per cent of the land a sum of Rs.235/- could be adopted.

(1) AIR (2007) Supreme Court 740 = 2007-1-L.W.84 [Deputy Director, Land Acquisition vs. Malla Atchinaidu]

(2) (2003) 4 SCC 481 [Ravinder Narain and another vs. Union of India]

(3) (2007) 9 SCC 447 [Nelson Fernandes and others vs. Special Land Acquisition Officer, South Goa and others]

(4) (2008) 1 SCC 554 = 2008-1-L. W. 117 [Lucknow Development Authority vs. Krishna Gopal Lahoti and others]

(5) (1996) 9 SCC 640 [Basavva (smt) and others vs. Special Land Acquisition Officer and others]

13. Regarding assessment of compensation for well, the following three decisions could be cited:

1. 2004 (4) CTC 183 (Revenue Divisional Officer, Mettur and others vs. N.Swaminathan and others)

2. (1996) 6 SCC 124 (Special Land Acquisition Officer vs. Virupan Shankar Nadagouda (K.Ramaswami judgment)

3. (1996) 6 SCC 197 (State of Bihar vs. Madheshwar Prasad)

14. A perusal of those judgments would clearly indicate that for well alone no separate compensation could be awarded. However, the learned

counsel for the land owners would strenuously argue that even though for well no compensation could be awarded, atleast for three borewells

which were sunk inside the well could be considered for quantification of the compensation. I am of the considered opinion that when for well itself

no compensation could be awarded, no separate compensation could be awarded for the three borewells which are sunk deep in that big well.

Further more, the evidence of P.W.2 would in no way enlighten as to what was the actual value of the pipes for sinking the weir and when those

bore wells were used. In the absence of those details, simply because P.W.2 stated that for borewell a sum of Rs.10,000/-; for well with pumpset

Rs.2,00,000/- and totally Rs.2,10,000/- are the values, they cannot be accepted. Even in his deposition, he has not detailed anything. However, in

this case, the Land Acquisition Officer himself awarded a compensation of Rs.17,960/- and it could be left as such without being interfered with as

only agricultural value of the land is being given here as compensation. The Reference Court enhanced the compensation for trees to the tune of

Rs.3,600/- relating to 18 coconut trees and I am of the considered opinion that no interference is required, as only a sum of Rs.200/-was awarded

for each coconut tree, which by any standard could be labelled as exorbitant warranting interference. Accordingly, the judgment and decree of the

Sub Court stand modified and the appeal is partly allowed to the effect that the compensation of per cent of land is reduced from Rs.250/- to

Rs.235/-(Two hundred and thirty five only); the compensation for well is reduced to Rs.17,960/-) Rupees seventeen thousand nine hundred and

sixty only) and for coconut trees the sum of Rs.3,600/- awarded in total is confirmed. I make it clear that the land owner is eligible for other

statutory benefits. No costs.