(2014) 11 MAD CK 0552

In the Madras High Court

Case No : A.S. (MD) No. 190 of 2014 and M.P. (MD) No. 1 of 2014

The Special Tahsildar (ADW) APPELLANT

Vs

Chellam RESPONDENT

Date of Decision : 17-11-2014

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

Citation : (2014) 11 MAD CK 0552

Hon'ble Judges : P. Devadass, J

Bench : Single Bench

Judgement

P. Devadass, J.—Lands comprised in Survey Nos. 267/1, 267/2A, 267/2B, 267/2C, 267/3A, 267/3B, 267/4A, 267/4B1, 267/4B2 situate in Venthoni Village in Paramakudi Taluk in Ramanathapuram District, were acquired for the public purpose of providing roof to roofless, namely members of de-notified community.

2. The notification under Section 4(1) of the Land Acquisition Act, was made on 30.06.1995. Considering the sales statistics and the statement of the claimants, the Land Acquisition Officer, fixed Rs.168.96 per cent as compensation.

3. The Land Acquisition Officer made reference under Section 18 of the Land Acquisition Act, before the Land Acquisition Tribunal (Sub-Judge), Paramakudi.

4. Evidence oral and documentary, have been adduced before the Tribunal. The Tribunal mainly relying on Ex.C1 sale deed, raised the compensation to Rs.3000/- per cent.

5. As against the said rate of determination of compensation, the Department has directed this appeal.

6. The learned Special Government Pleader submitted that looking at Ex.R5 sketch map, the distance between the land comprised in Ex.C1 and the lands acquired, is vast. Further, the Tribunal adopted a wrong approach in taking into account the average value, based on the sales statistics produced by the

claimants. Further, no deduction towards development charges have been made. The learned Special Government Pleader added that the Tribunal has not approached the matter in proper perspective.

7. On the other hand, the learned counsel for the respondent/claimant has submitted that the lands were acquired as early as in 1995. Now, we are nearing the close of 2014 and the dawn of the new year, now, the land value has gone very high in these days of high inflation and increase of price of even essential commodities.

8. The learned counsel for the respondent/claimant also contended that near the acquired lands, there is a National Highway. There is Krishna theatre and railway gate and various other amenities. The lands situate near the acquired lands have potential value. Such potential value also a relevant factor in determining compensation. The lands are agricultural lands. Even now, near Venthoni village, agricultural operations are going on. In the facts and circumstances, deduction towards development charges will not arise. If it is given, it will completely make a devastating dent in the compensation package. The learned counsel also would point out that Ex.C1 sale deed, was six months prior to Section 4(1) notification under the Act. Under Ex.C1, the lands have been sold for more than Rs. 6,000/- per cent. Thus, what was fixed by the Tribunal itself is very low.

9. In reply, the learned Special Government Pleader submitted that the crucial date for determining the market value of the acquired land is the period prior to Section 4(1) notification, namely 30.06.1995. Value anterior to that date and not posterior to that date alone has to be taken, for the purpose of determining the compensation under the Land Acquisition Act.

10. I have anxiously considered the rival submissions, perused the records of the case and the impugned common award of the Tribunal.

11. As stated already, the lands were acquired for a public purpose of giving roof to roofless. The acquired lands situate in Venthoni village in Paramakudi Taluk in Ramanathapuram District. They are situate in Survey Nos. 267/1, 267/2A, 267/2B, 267/2C, 267/3A, 267/3B, 267/4A, 267/4B1, 267/4B2 in Venthoni village.

12. The Land Acquisition Officer fixed compensation at the rate of Rs.168.96 per cent. The Tribunal had raised it to Rs.3,000/- per cent.

13. In order to have a hike in the rate of compensation, the claimants have relied on Ex.C1 sale deed. Admittedly, under Ex.C1, sale took place six months prior to the notification under Section 4(1) of the Land Acquisition Act.

14. As rightly pointed out by the learned Special Government Pleader, the lands covered under Ex.C1 comprised in Survey No. 151/1A8 is at a distance from the acquired land, is evident from Ex.R5 sketch map. Further, in the facts and circumstances of the case, we are not subscribing to the yardstick adopted by the Tribunal in fixing the compensation amount on an average basis.

15. At the same time, there are certain undenial factual matrix emanating from the records of the case. Near the acquired lands, there is Paramakudi-Ramanathapuram National Highway, a busy road having hectic flow of traffic, because it is leading to wholly places like Ramanathaswamy temple in Rameshwaram and Ervadi Dharga etc., and the road proceeds across the busy business town of Paramakudi having row of shops on its either side. Near the acquired lands, there is Krishna theatre. Paramakudi town has been linked with a railway line. Paramakudi railway station is an important junction in the southern side. Near Venthoni village, there is a railway gate. Now, almost all the agricultural lands are becoming housing plots. The lands situate in the vicinity of the acquired lands has also increased in land value because of various amenities. Such potentiality of the lands in the neighbourhood are also to be taken into account in fixing the market value.

16. As on the date of acquisition, the lands are agricultural lands. In the facts and circumstances, making deduction towards development charges, will not reflect in giving them a proper compensation.

17. Claimants are entitled to fair, reasonable and just compensation, but not a bounty. It should be a just compensation and should not be a windfall to them. Taking note of the distance factor and other aspects, Rs.3,000/- per cent, fixed by the Tribunal is little bit on the higher side. In the facts and circumstances of the case, reducing the compensation to Rs.2,750/- per cent will result in fair and just compensation to the claimants.

18. In the result, the appeal is allowed in part. The award of the Tribunal is modified to the effect that the compensation is now fixed at Rs.2,750/- per cent. The respondent/claimant is entitled to all the statutory entitlements, interest and proportionate cost. However, parties are left to bear their respective costs in this appeal. Consequently, connected M.P.(MD) No. 1 of 2014 is closed.