(2009) 04 MAD CK 0424

In the Madras High Court

Case No : A.S. No. 493 of 1998 and Cross Objection No. 23 of 1999

The Special Tahsildar APPELLANT

Vs

Asan Mohideen and Kasim Labbai RESPONDENT

Date of Decision : 29-04-2009

Acts Referred:

Citation : (2009) 04 MAD CK 0424

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

Bench : Single Bench

Advocate : S.C. Herold Singh, Addl. Government Pleader, for the Appellant; Ramesh @ Ramiah, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Ramanathan, J.—The Special Tahsildar (LA), Adi-Dravidar Welfare Scheme, Sencottai, is the appellant herein.

2. Land in Survey No. 242/4A and 6 of an total extent of 4.91 acres in the village of Pudur, Sencottai Taluk, was acquired under 4(1) notification dated 12.08.1992 for the purpose of providing house sites to the Adi Dravidars and after complying with the formalities, an award in award No. 7/93-94 dated 30.11.1993 was passed by fixing the market value at Rs. 197.06/- per Cent. Not being satisfied with the enhancement, the claimants sought for reference and the matter was referred in L.A.O.P. No. 10 of 1995, on the file the Principal Sub Court, Tenkasi, and the learned Sub Judge enhanced the market value at Rs. 600/- per Cent. Aggrieved by the same, this appeal is filed by the appellant.

3. The claimant not being satisfied with the enhancement filed Cross Objection No. 23 of 1999 claiming enhancement of Rs. 1000/- per Cent as compensation.

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

5. Whether the respondents/claimants in this appeal are entitled to further

enhancement as claimed by them?

6. Before the lower Court the first claimant examined himself as P.W.1 and one Assistant from the Department was examined as R.W.1. and on the side of claimants, a sale deed dated 08.06.1992 in respect of survey No. 242/4 of an extent of 10 cents sold for Rs. 10,000/- was marked. The Acquisition Officer considered 38 sale deeds and selected data land which is in survey No. 224/4, 222/2 and 222/6 and fixed the market value at Rs. 197.06/- per Cent.

7. Admittedly, the acquired land is in Survey No. 242/4A and 6 and the data land was in Survey No. 222, which is far away from the acquired land and therefore, that should not have been taken for fixing the market value. On the other-hand, the land covered under Ex.A1 is in Survey No. 242/4 and the acquired land is in survey Nos. 242/4A and 6. It has been held in the judgments reported in Land Acquisition Officer (Revenue Division Officer) Nalgonda (A.P.) v. Morisetty Satyanarayana and Ors., (2002) 10 SCC 570 and Ranvir Singh and Another Vs. Union of India (UOI), , the most relevant piece of evidence would be sale deed pertaining to portions of the acquired land. Therefore, the value for which the land under Ex.A1 was sold can be safely taken into consideration for fixing the market value. While fixing the market value deduction towards development charges can be given as the land in Survey No. 242 covered under Ex.A1 was sold as a house site. In my opinion, 1/4th deduction can be made from that value towards development charges and if so calculated the market value can be fixed at Rs. 750/- per Cent.

8. Accordingly, I fix the market value at Rs. 750/- per Cent and therefore, I allow the Cross Objection No. 23 of 1999 enhancing the compensation of Rs. 600/- to Rs. 750/- per Cent and consequently, A.S. No. 493 of 1998 challenging the enhancement is dismissed. In other aspects, the order of the lower Court is confirmed. There is no order as to costs.

