

(2017) 04 MAD CK 0259
In the Madras High Court
Case No : 181 of 2010

The Special Tahsildar

APPELLANT

Vs

C.Chinnasamy Gounder (died)

RESPONDENT

Date of Decision : 11-04-2017

Acts Referred:

Land Acquisition Act, 1894, Section 54,
Section 4(1) - Appeals in proceedings before Court - Publication
of preliminary notification and powers of officers thereupon.

Citation : (2017) 04 MAD CK 0259

Hon'ble Judges : N.Sathishkumar

Bench : SINGLE BENCH

Advocate : N.Sathishkumar

Judgement

1. This appeal is filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894, challenging the enhancement of compensation granted by the Ist Additional Sub-Court, Erode.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant and Mr.S.Kaithamalai Kumaran, learned counsel for 9th Re . There is no representation for the Respondents 6 and 11.

3. By G.O.Ms.No.91, Industries Department, dated 27.02.1991, the Government has approved the proposals for acquisition of 9.86.0 Hectares of lands comprised in R.S.Nos.21/1 to 21/18, 28/1 to 28/12 and 291/1 to 29/8, situate at Ingur Village, Perundurai Taluk, for formation of Industrial Development Corporation. A Notification under Section 4(1) of the Land Acquisition Act was published in the Government Gazette on 19.08.1992. It was published in the newspapers on 14.08.1992 and 15.08.1992 and in the locality on 17.09.1992.

4. Pursuant to the the said Notification, for acquisition of 9.86.0 hectares of lands in R.S.Nos. 21/1 to 21/18, 28/1 to 28/12 and 291/1 to 29/8, situate at Ingur Village, Perundurai Taluk, following the mandatory provisions of the Land

Acquisition Act namely Section 5A enquiry and Section 6 Declaration, an award was passed in award No.3/1996 on 11.01.1996, by the Special Tahsildar Land Acquisition TACID, Unit-2, Perundurai. Before passing the award, the Land Acquisition Officer took note of the fact that about 49 sale transactions had taken place during the period of three years immediately preceding the date of Notification under Section 4(1). Out of them, 36 transactions were rejected on the ground that the lands are situated far away from the acquired lands and they were sold for lesser price. Four sale transactions were rejected on the ground that they were situated far away from the acquired lands and were sold for higher price.

5. The Land Acquisition Officer has accepted nine sale transactions at Sl.Nos.18 to 26 for the reason that they were situate within the surroundings of more than a Mile and they were similarly classified as Manavari land as that of the acquired lands and they were sold for a reasonable price. Ultimately, the Land Acquisition Officer took note of the sale transaction at Serial No.20 wherein 0.90 cents of land comprised in R.S.No.351/4, classified as Manavari land was sold for Rs.26,730/- i.e. Rs.29,700/- per acre, which was registered as document No.1210, dated 26.08.1990. Further, the Land Acquisition Officer took note of the sale transaction at Serial No.30 of an extent of 0.23 cents comprised in R.S.No.44/2, 11, 43/13 which was classified as garden land, sold for Rs.10,800/-, registered as document No.1850, dated 7.11.1990. Based on the said sale transactions, the Land Acquisition Officer has fixed the compensation at Rs.29,700/- per acre for Manavari lands and Rs.40,000/- per acre for garden lands. Since the Claimants have received the compensation under protest, the Land Acquisition Officer has made References under Section 18 of the Act, and they were taken on file by the Sub-Court, Erode in L.A.O.P.No.18 of 2000.

6. On the side of the claimants 6th Claimant examined himself as C.W.1 and three other witnesses were also examined as C.W.2 to C.W.4 and seven documents were marked as Ex.C1 to Ex.C9. Ex.C.1 is the Original partition deed dated 29.05.2003; Ex.C2 is the Xerox copy of Award passed by the Fast Track Court, Erode in L.A.O.P.No.2/2003, dated 23.09.2003; Ex.C3 is the Xerox copy of the decree dated 23.09.2003 in the said LAOP; Ex.C4 is the copy of the Government Order dated 7.7.1989 declaring the Perundurai Taluk as Backward Taluk; Ex.C.5, Ex.C6 are the sale deeds dated 29.8.1991, and Ex.A7 and Ex.C8 are the sale deeds dated 03.09.1992 and 15.09.1992; Ex.C9 is the Xerox copy of the Judgment dated 7.3.2005 in L.A.O.P.No.23/ 2002 passed by the Fast Track Court, Erode.

7. The retired Special Tahsildar, who has acquired the lands was examined as R.W.1 and three documents were marked as Ex.R1 to Ex.R3. Ex.R.1 is the Award No.3 of 1996 dated 11.01.1996. Ex.R2 is the copy of sale deed dated 06.04.1995; Ex.R3 series are the consent letters given by the Claimants to the Land Acquisition Officer.

8. The learned trial Judge, while fixing the compensation, has taken note of the

sale transactions under Ex.C5 and Ex.C6 sale deeds dated 29.8.1991. Under Ex.C5 sale deed dated 29.8.1991, an extent of 11.05 cents comprised in R.S.No.522/4 has been sold for Rs.50,000/- which comes to Rs.4,34,700/- per acre. Under Ex.C6 sale deed dated 29.8.1991, an extent of 5.05 cents have been sold for Rs.24,000/- which comes to Rs.4,37,500/- per acre. The learned trial Judge has also taken note of the evidence of C.W.2 who is the vendor of Ex.C5. C.W.2 to the effect that the purchaser has negotiated with him to purchase the lands under Ex.C5 and C6 at Rs.7,000/- per cent, and it was purchased for Rs.80,500/-. Ultimately, the learned trial Judge after making deductions towards the developmental charges, has fixed the value of the acquired land at Rs.2,00,000/- per acre. Aggrieved over the judgment and decree of the learned trial Court, enhancing the amount of compensation, the appeal came to be filed by the Land Acquisition Officer.

9. Though the learned Additional Government Pleader appearing for the appellant has filed this appeal challenging the enhancement of compensation made by the learned trial Court, he has fairly conceded for the compensation fixed by the learned trial Court, since the learned trial Court has made reasonable deduction towards developmental charges. However, so far as the escalation of price and other aspects, the learned Additional Government Pleader cannot make out any case before this Court.

10. In the above background, now, the only point for consideration is: Whether the judgment and decree passed by the trial Court enhancing the compensation is sustainable or not?

11. The Point:- From the evidence of the Claimants and the Respondent and the documents exhibited on both sides, it could be seen that C.W.2 who is the vendor of Ex.C5 has deposed that the purchaser of the lands under Ex.C5 and C6 has negotiated with him to purchase the same at Rs.7,000/- per cent, and it was purchased for Rs.80,500/-. In fact, under Ex.C5 and Ex.C6 sale deeds dated 29.8.1991, an extent of 11.05 cents comprised in R.S.No.522/4 has been sold for Rs.50,000/- which comes to Rs.4,34,700/- per acre and an extent of 5.05 cents have been sold for Rs.24,000/- which comes to Rs.4,37,500/-. Furthermore, the evidence of C.W.1 to C.W.4 would clearly show that the lands in and around the Ingur Village have been sold as house sites, factory sites etc., during 1989-92, as the area was fast developing and the lands acquired are very close to Perundurai to Kadappamadaai road and N.H.47 Coimbatore road and had the potentiality for house sites and for commercial usages and are close to the Schools and industries and the market value per acre at the time of Section 4(1) Notification was Rs.3.00 lakhs. The above facts were not denied by R.W.1 during the cross-examination. The Land Acquisition Officer has not given satisfactory evidence for rejection of most of the sale transactions collected by him while fixing the Award amount. The learned trial Judge taken in to consideration of the above oral and documentary evidence, has rightly fixed the value of the acquired land at Rs.2,00,000/- per acre, after making reasonable deduction towards

developmental charges, which is reasonable.

12. The learned Additional Government Pleader has also fairly conceded for the compensation fixed by the learned trial Court, since the learned trial Judge has made necessary deduction towards developmental charges. Hence, there is no infirmity in the award passed by the learned trial Court and is liable to be confirmed. Accordingly, the award passed by the learned trial Court is confirmed. The point is answered accordingly.

13. In the result, the Appeal stands dismissed and the judgment and decree of the learned trial Court is confirmed. No costs. Consequently, M.P.No.1 of 2010 is closed.