
(2009) 01 MAD CK 0276

In the Madras High Court

Case No : A.S. No. 1266 of 1995 and C.M.P. No. 17537 of 1995

The Special Tahsildar

APPELLANT

Vs

Parvathy

RESPONDENT

Date of Decision : 07-01-2009

Acts Referred:

Tamil Nadu Land Acquisition Act, 1978 — Section 18, 23, 4(1)

Citation : (2009) 01 MAD CK 0276

Hon'ble Judges : S. Tamilvanan, J

Bench : Single Bench

Advocate : S.C. Heroldsingh, Additional Govt. Pleader, for the Appellant; Party-in-Person, for the Respondent

Final Decision : Dismissed

Judgement

S. Tamilvanan, J.—This Appeal has been preferred against the judgment and decree dated 24.03.1992 made in L.A.O.P. No. 12 of 1987 on the file of the Land Acquisition Tribunal/Subordinate Judge of Sivagangai.

2. It is an admitted fact that the land in Survey No. 167/2 an extent of 0.24.5 hectare was acquired by the appellant herein for constructing Master Plan Complex for the acquired land. The appellant herein had fixed the compensation at Rs. 47.45/-per cent. At the request of the respondent/claimant, the matter was referred to u/s 18 of the Tamil Nadu Land Acquisition Act. The Land Acquisition Tribunal, considering the facts and circumstances, has enhanced the compensation at Rs. 400/- per cent and directed the appellant herein to pay the compensation with 30% solatium, 12% additional amount and interest, as per Section 23 of the Land Acquisition Act. Aggrieved by which, the appeal has been preferred by the Special Tahsildar, Master Plan Complex, Sivagangai.

3. Mr. S.C. Heroldsingh, learned Additional Government Pleader appearing for the appellant submitted that the Land Acquisition Tribunal has fixed a higher amount towards the compensation for the acquired land. The learned Counsel has not

disputed the extent of land acquired for the purpose of having the Master Plan Complex, in Sivagangai.

4. In the impugned order passed by the court below, it has been discussed that the respondent/claimant had claimed Rs. 1,500/- per cent. The claimant herself was examined as P.W.1. On the side of the appellant, no witness was examined and no document was marked. It is not in dispute that the acquired land is located nearby a developed residential area and that is why, the land was acquired for the purpose of locating the Master Plan Complex. There is no supporting documents marked either on the side of the respondent/claimant or on the side of the appellant/Referring Officer. There is no evidence to substantiate that the value of the property acquired would be more than Rs. 1,500/- per cent, as claimed by the respondent/claimant.

5. However, in the impugned judgment the Land Acquisition Tribunal has specifically stated that in the similar Land Acquisition Original Petitions relating to the land acquired for the Master Plan Complex, Sivagangai, compensation was awarded at Rs. 400/- per cent by Tribunal. The said fact has not been disputed by the appellant in the grounds of appeal.

6. Considering the facts and circumstances, and the award passed in the connected Land Acquisition Original Petition, compensation was awarded by the Tribunal at Rs. 400/- per cent. It is seen that the appellant has not even produced any supporting document to show the award passed in the connected Land Acquisition Original Petition. The sketch shows that the acquired land, data land and other lands in the area. It is not in dispute that the land was acquired for the purpose of housing the proposed Master Plan Complex. It is seen that notification u/s 4(1) of the Land Acquisition Act was published on 22.05.1985 in the Tamil Nadu Government Gazette. The court below has specifically stated in the award that the compensation for the acquired land was awarded at Rs. 400/- per cent based on the compensation fixed for the similar lands acquired by the appellant/Referring Officer for the purpose of constructing Master Plan Complex. The said finding is available in the impugned judgment which is not in dispute in this appeal. The compensation awarded for similarly placed lands at Rs. 400/- per cent is also not disputed by the learned Counsel appearing for the appellant. The appellant has not even produced a copy of the judgment relating to the connected Land Acquisition Original Petition. As the court below has specifically stated that in the connected cases, the value of the land was fixed by the Tribunal at Rs. 400/- per cent and fixing the same for the land relating to the appeal, it is the duty of the appellant to disprove the finding of the Court below with supporting documents. As there is no specific denial in the grounds of appeal, with regard to the compensation awarded in the connected cases, the said finding has to be construed as an undisputed fact. It is also not in dispute that no appeal is pending against the award passed in the other similar Land Acquisition Original Petitions.

7. Considering the facts and circumstances, I am of the view that there is no

error or infirmity in fixing similar amount of compensation for the acquired lands relating to this appeal. As the compensation awarded by the Land Acquisition Tribunal/Subordinate Judge, Sivagangai is just and reasonable, the appeal fails. Accordingly, the same is dismissed. Consequently, the C.M.P is also dismissed. No costs.