

(2010) 08 MAD CK 0447

In the Madras High Court

Case No : A.S. No. 271 of 2003 and Cross Objection No. 4 of 2005

The Special Tahsildar (LA), Adi Dravidar Welfare

APPELLANT

Vs

Parvathi and Others
Parvathi and Others Vs The
Special Tahsildar (L.A.), Adi Dravidar Welfare and Others

RESPONDENT

Date of Decision : 31-08-2010

Acts Referred:

Land Acquisition Act, 1984 — Section 54

Citation : (2011) 4 CTC 392

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : N. Ravi, Special Government Pleader AS, for the Appellant; G.R. Swaminathan, for Respondent Nos. 1, 2 and 4 in A.S. for K.A. Ravindran, for Respondent Nos. 5 to 9 in A.S. and also Cross-Objectors and V. Ravi, Special Government Pleader for Respondent No. 1 in Cross-Objection (AS), for the Respondent

Judgement

K. Chandru, J.—Heard.

2. This Appeal Suit is filed u/s 54 of the Land Acquisition Act, 1984, challenging the judgment and decree in L.A.O.P. No. 10 of 1999, dated 9.10.2000 on the file of the Sub-Court, Gudiyatham.

3. The lands of the Respondents/Claimants were acquired for the purpose of providing house sites to Backward class people. The Acquisition Authority fixed the compensation for the acquired lands at the rate of Rs. 150/-per cent and worked out the compensation along with other statutory dues payable under the Land Acquisition Act.

4. The Respondents/Claimants were not satisfied with the market rate fixed by the authority. Hence, the issue was referred for determination by the jurisdictional Reference Court. The reference was registered as L.A.O.P. No. 10 of 1999. Before the Reference Court (i.e. the Court below) on behalf of the claimant(s) C.W.1 and C.W.2 were examined as their witnesses. On their behalf,

4 documents were filed and marked as Exs.C. 1 to C.4.

5. On the side of the Acquiring Authority, R.W.1-U. Rose (Assistant) was examined and 2 documents were filed and marked as Exs.R.1 and Rule 2. The Reference Court on an analysis of the evidence (both oral and documentary) placed before it arrived at the market value of the lands acquired. It fixed the compensation at the rate of Rs. 450/- per cent together with proportionate statutory dues vide its judgment dated 9.10.2000. As against this judgment, the present Appeal was preferred by the Acquiring Authority. The Claimants have also filed Cross-Objection No. 4 of 2005 demanding Rs. 4,500/- per cent.

6. Printed copied of selected documents were filed. The case records of the Court below was also circulated by the Registry for reference.

7. The contention raised by the Appellant was that the enhanced compensation ordered by the Reference Court was arbitrary and not based upon the guidelines prescribed under the Land Acquisition Act.

8. The Court below found that Exs.C.1 and C.4 had come into existence before Section 4(1) Notification, whereas Exs.C.2. and C.3 were subsequent to the Notification. Exs.C.1 and C.4 are relating to house sites. But at the time of acquisition, the acquired lands were continued to be agricultural lands. Since the claimants never pleaded that they were to be treated as house sites, it has to be treated only as agricultural lands. It found that in Exs.R.1 and 2. Which were relied on as data lands, the costs worked out to Rs. 150/- per cent. Whereas since the acquired lands are situated adjacent to Gudiyatham Palavaner main road and coming within the Gudiyatham town limits, the rate fixed by the authority is low. Hence, it fixed Rs. 450/- per cent and the claim made by claimants for Rs. 45,000/- cannot to be accepted.

9. Though the Acquiring Authority in the Appeal contended that exemplars produced by the claimants were having smaller extent and were not comparable and that no higher amount could be granted, in the cross objection, the claimants have contended that since the lands are situated in the Gudiyatham town limits, they are entitled to get higher amount and that the market rate will be fixed only on the basis of the rate per square feet and not an acreage.

10. In the light of the rival contentions, it has to be seen whether the compensation worked out by Reference Court was valid and proper ?

11. The evidence of R.W.1-U Rose, who was an Assistant in the office of the Tahsildar, Adi Dravidar welfare, clearly shows that the land was within the Municipal limits. As per the Government Order, for the lands acquired in the municipal limits, the rate will have to be worked out only on the basis of rate per square feet. The acquired land is adjacent to the main road. She feigned ignorance about whether lands were sold at the rate of Rs. 10/- per sq.ft. as house sites in the area. Whereas in the exemplars produced by claimants, the following rates were indicated:

(a) Ex.C.1, dated 29.7.1987, Document No. 3479/1987, 728 sq.ft. Rs. 6,500/-S. No. 260/2A classified as Punja lands.

(b) Ex.C.2, dated 28.8.1988, 928 sq.ft. Rs. 10,440/- S. No. 260/1. Punja land,

(c) Ex.C.3, dated 10.10.1990, 4796 sq.ft. (11) cents Rs. 43, 164/- S. No. 265.

(d) Ex.C.4, dated 29.11.1985, 1507 sq.ft. Rs. 6,028/- S. No. 274/1,

12. C.W.1 who was the son of Poongavanammal, the original Sixth Respondent, in his evidence stated that the land is situated in S. No. 265/2 and 266/2 in the same Seevur village, where the other exemplars were also found. He had also stated that lands were sold at the rate Rs. 9/- per sq.ft. as house sites. Therefore, they are demanding Rs. 4,500/- per cent.

13. Section 4(1) Notification was issued in this case on 25.11.1997. Therefore, all the exemplars produced by the claimants were prior to Section 4(1) Notification. The Court below having accepted was low, but curiously fixed the compensation only on the basis of acreage, which worked out to Rs. 450/- per cent without any basis. On the other hand, the land owners have given cogent evidence and produced appropriate documents supporting their case.

14. This Court in the Land Acquisition Officer, Special Thasildar, Adi Dravidar Welfare, Harur and Anr. v. Radhakrishnan Chetty and Anr. 2010 (1) CTC 527, respect of the acquisition covers in the neighbouring village had fixed the compensation in S.A. No. 1003 of 2008 at the rate of Rs. 11/- per Sq.ft. and in S.A. No. 1004 of 2008 at the rate of Rs. 5/- per Sq.ft.

15. The Supreme Court in A. Vembusekaran v. Special Thasildar, Namakkal in Civil Appeal No. 6899 of 2002, dated 18.2.2010 had fixed Rs. 10.25/- per Sq.ft. in respect of one neighbouring village and also given direction that the same compensation should be given to persons, who have not filed any Appeal due to illiteracy, ignorance and financial capacity.

16. In a recent judgment, the Supreme Court in A. Natesan Pillai v. Special Tahsildar, Land Acquisition, Tiruchy in Civil Appeal No. 36 of 2004 dated 11.8.2010 has fixed Rs. 11/- per Sq.ft. in a village near Tiruchirappalli.

17. If these Yardstick are undertaken, then as per Ex.C.3 which is the document related to the very same survey number, 11 Cents, (4796 Sq.ft.) was sold at Rs. 43,164/- which approximately worked out to Rs. 9/- per Sq.ft. The acquisition is for providing house sites and the lands as per evidence can be utilized as house sites. Even the adjacent lands were sold only as house sites. Therefore, this Court is of the opinion that the compensation will have to be worked out only on the basis of rate per square feet. Therefore, on the basis of the exemplar in Ex.C.3, this Court is of the opinion that the compensation should have been worked out at Rs. 9/- per Sq.ft. If it is calculated on the basis of rate per square feet, an average market value per cent works out to Rs. 4,000/- approximately. Since the area was already having house sites and the lands were sold only as

house sites, the question of further reduction on the value will not arise.

18. The Supreme Court in a recent judgment in Sagunthala (Dead) through LRs. Vs. Special Tehsildar (L.A.) and Others, held as follows:

24. In the light of the above material facts this Court feels that the presence of a number of buildings on the lands acquired and the said lands being occupied by the buildings are to be treated as house sites. The basic purpose that has been traced out in the evidence and as admitted by the R. Ws. is that the Lands were acquired for the purpose of putting up residential quarters. As a portion of the land is being considered as house site, the adjoining lands have sites in the near future.

25. The other important factor is the proximity of the plots to two residential colonies i.e. Anna Nagar and Gandhi Nagar. As it has come on record that Anna Nagar colony has about 150 houses, as such it is reasonable and proper to conclude that the present lands under disputes were near the residential colonies .

26. It is should also be taken into consideration that the disputed lands were situated near the factory premises and further were adjoining the main road which connects Tanmag Road. As such the aforesaid lands are potential house sites.

...

34. In view of the admitted case that the lands acquired were potential house sites we do not agree with the views taken by the High Court while calculating the compensation. R-13 and R-15 are the two Sale Deeds containing. R-13 and R-15 are two Sale Deeds containing particulars of the sale transactions held that three years prior to the Section 4(1) Notification. The Reference Court after close perusal of the aforesaid documents held that the same disclose that out of more than 100 sales, a number of sales in respect of the lands were sold as house sites in Thathaiyangarpatti village and the adjacent survey number in Thekkampatty village were also sold as house sites.

19. In the light of the above, A.S. No. 271 of 2003 will stand dismissed. Cross-Objection No. 4 of 2005 will stand allowed. The compensation payable to the land owners/claimants should be worked out at Rs. 4,000/- per cent together with all other statutory payments due to them. However, there will be no order as to costs.