
(2008) 06 MAD CK 0011
In the Madras High Court
Case No : A.S. No. 1136 of 1995

The Special Tahsildar (LA) Adi Dravrdar Welfare, Tiruthani	APPELLANT
Vs	
K. Subbarathinammal	RESPONDENT

Date of Decision : 26-06-2008

Acts Referred:

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

Citation : (2009) 2 LW 569

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : V. Ravi Special Government Pleader AS, for the Appellant;

Judgement

G. Rajasuria, J.—This appeal is focussed as against the judgment and decree dated 24.06.1993 of the learned Subordinate Judge of

Kancheepuram made in LAOP No. 7 of 1991. For convenience sake, the parties are referred to here under according to their litigative status

before the trial Court. Heard the learned Special Government Pleader(AS) appearing for the appellant.

2. The nutshell of facts which are absolutely necessary and germane for the disposal of this LAOP would run thus:

The Government published Section 4(1) Notification under the Land Acquisition Act for acquiring the land measuring an extent of 0.51.5 hectares

in S. No. 88/12 in Veeranathur Village, for the purpose of providing housing sites for the Adi Dravidar personnel. After complying with the

procedures, the Land Acquisition Officer passed an award assessing a sum of Rs. 100/- per cent towards compensation. Being aggrieved by such

awarding of the compensation, the matter was got referred to the Sub Court u/s 18 of the Land Acquisition Act.

3. During enquiry before the Sub Court, the claimant/land owner examined herself as P.W. 1 and exhibited Ex.C.1. No oral evidence was

adduced on the side of the Land Acquisition Officer as he did not examine himself.

4. The Sub Court, ultimately enhanced the compensation to Rs. 1,306/- per cent placing reliance on Ex.C.1.

5. Being dissatisfied with the judgment and decree of the Sub Court, the Land Acquisition Officer preferred this appeal on various grounds, the gist

and kernel of them would run thus:

The judgment and decree of the trial Court is against law and weight of evidence and all probabilities of the case. The Sub Court was not justified

in placing reliance on Ex.C.1 in enhancing the compensation to the extent of Rs. 1,306/- per cent. The land acquired at the time of acquisition was

not intended for house sites. Without any valid reason, the data gathered by the Land Acquisition Officer for assessing the value of the land were

ignored by the Sub Court. Hence, he prayed for setting aside the judgment and decree of the Sub Court.

6. The point for consideration is as to whether the Sub Court was justified in enhancing the compensation from Rs. 100/- to Rs. 1,306/- per cent

of land placing reliance on Ex.C.1.

7. Despite printing the name of the respondent after service, neither the respondent nor any counsel for her was present.

8. However, the learned Special Government Pleader (AS) would advance his argument to the effect that the Sub Court simply placed reliance on

Ex.C.1 without deducting any amount towards development charges. According to him, the sale deed emerged only a few months anterior to

Section 4(1) Notification. Accordingly, he prayed for setting aside the judgment and decree of the Sub Court.

9. The point for consideration is as to whether the Sub Court awarded just compensation by placing reliance on Ex.C.1 and that too without

deducting any amount towards development charges?

10. Ex.C.1 is the certified copy of the sale deed dated 01.02.1988 which would connote that an extent of 14 cents in S. No. 85/10 in the

Veeranathur village was sold for a sum of Rs. 18,312/-. Accordingly if worked out. per cent it comes to Rs. 1,308/-. The Sub Court assessed per

cent in a sum of Rs. 1,306/- without making any deduction towards development

charges.

11. It has to be seen as to whether the Sub Court was justified in placing reliance on Ex.C.1. A mere comparison of the Survey Number of the land acquired by the Government with the Survey Number contemplated in Ex.C.1 would speak volumes that both those lands are nearer to each other. However, the Land Acquisition Officer for the purpose of assessing the compensation, placed reliance on the sale deeds relating to Survey Numbers which are far away from the land acquired. There is nothing to indicate that Ex.C.1 is a cooked-up document purely for the purpose of boosting up the compensation. The Sub Court in its judgment correctly discussed and highlighted in paragraph No. 8 the fact that the Land Acquisition Officer relied on the sale deeds pertaining to S. Nos. 58, 127/7 and 126/2 in that village.

12. The perusal of the award and the enclosures would reveal that the Land Acquisition Officer himself gathered data relating to sale particulars and under S1. No. 78 it could be seen that Ex.C.1 is referred to. In Sl. No. 91 of the data lands, an extent of 1,400 sq.ft was sold for a sum of Rs. 7,600/- on 20.04.1988. However, considering Ex.C.1 which is not found to be a cooked-up document, the Sub Court placed reliance on it and it cannot be found fault with. However, there is one glaring mistake committed by the Sub Court in not deducting any amount towards development charges.

13. My mind is redolent with the decision of the Hon''ble Apex Court reported in Smt. Basavva and others Vs. Special Land Acquisition Officer and others, and the decisions of this Court reported in The Land Acquisition Officer (Sub Collector) Vs. Pappammal and Others, and 2006(2) CTC 733 [The Special Tahsildar (Land Acquisition) vs. Valliammal].

14. A mere perusal of the above judgments would highlight that necessarily while awarding enhanced compensation, treating agricultural lands as house sites, towards development charges such as roads, parks and for providing other amenities, considerable amount should be deducted. The actual rate of deduction varies from case to case depending upon the peculiar circumstances involved. In this case, the extent of land acquired is 0.51.5 hectares for the purpose of providing house sites for 26 Scheduled Caste families and in such a case necessarily facilities for road, drainage

and park should be provided.

15. In such a case, I am of the considered opinion that one third of the amount could rightly be deducted towards development charges. As such,

from the amount of Rs. 1,308/- per cent as assessed with reference to Ex.C.1, 1/3rd has to be deducted and the net amount comes to Rs. 872/-

per cent. As such, I am of the considered opinion that the just compensation awardable is only Rs. 872/- per cent.

16. In the result, the judgment and decree of the trial Court shall stand modified and the enhanced compensation of Rs. 1,306/-per cent shall get

reduced to Rs. 872/- per cent. Accordingly, this appeal is allowed in part and the claimant is entitled to other statutory benefits as per law.