(2014) 11 MAD CK 0248

In the Madras High Court

Case No : A.S. (MD) No. 985 of 2001

The Special Tahsildar (LA) — APPELLANT

Vs

J. Suseela — RESPONDENT

Date of Decision : 18-11-2014

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

Citation : (2014) 11 MAD CK 0248

Hon'ble Judges : P. Devadass, J

Bench : Single Bench

Judgement

P. Devadass, J.—This appeal has been directed at the instance of the Government as against the determination of the rate of compensation made by the Land Acquisition Tribunal/1 Additional Sub Jude, Madurai, in L.A.O.P.No. 39 of 1993.

2. A notification, under Section 4(1) of the Land Acquisition Act, was published in the Government Gazette, on 13.06.1986, for the acquisition of lands, comprised in Survey No. 78/2, measuring 20 Cents, situate in Thathaneri in Madurai, belonging to the claimant, for the purpose of laying Karur- Dindigul-Madurai Broad Gauge Railway Line.

3. The Land Acquisition Officer/Special Tahsildar, determined the compensation at Rs.1,000/- per cent.

4. The Land Acquisition Officer made reference, under Section 18 of the Land Acquisition Act, to the Tribunal, namely, I Additional Subordinate Court, Madurai, and the Tribunal taken the case on file as L.A.O.P.No. 39 of 1993.

5. In the enquiry before the Tribunal, on behalf of the claimant one Sakthivel has been examined as C.W.1 and Exs.C1 to C4 have been marked. On the department''s side, one Ayyasamy has been examined as D.W.1 and Ex.B1 sketch map has been marked.

6. Considering the evidence as well as the submissions of both sides and also

referring to Exs.C1 and C2, The Tribunal enhanced the compensation to Rs.5,000/- per cent.

7. Aggrieved by the said rate of compensation as stated at the outset, the department has directed this appeal.

8. The learned Special Government Pleader for the appellant contended that the hike made by the Tribunal is huge. There is no basis for making such increase. Further, the learned Special Government Pleader contended that towards development charges no deduction has been made.

9. On the other hand, the learned counsel for the respondent/claimant would contend that the land is situate at an important place in Madurai Corporation. Even under Exs.C1 and C2, the surrounding lands were sold at an higher rate much prior to Section 4(1) notification. In such circumstances, what was fixed by the Tribunal itself is very less. Further, the lands were acquired for laying down railway line. In the facts and circumstances, deduction towards development charges will not arise. It would result in huge erosion in the compensation package and further that will not reflect the just compensation.

10. I have anxiously considered the rival submissions. Perused the award of the Tribunal and the records of the case.

11. Now, we are scrutinizing the fixation of the compensation done by the Tribunal. The lands have been acquired for the public purpose of laying down a railway line. Section 4(1) notification has been made on 13.06.1986. Therefore, the relevant date for considering the comparable sale statistic is the period prior to the said date, namely, 13.06.1986. The land owner must be given fair, reasonable and just compensation. To arrive at the market value of the acquired lands, relevant facts have to be taken into account.

12. Now, relying upon certain sale statistics, the Land Acquisition Officer determined the compensation at the rate of Rs.1,000/- per cent. It is pertinent to note that those sale statistics relates to a period much prior to the date of Section 4(1) notification. In such circumstances, the Tribunal has rightly kept aside those sale statistics from it''s zone of consideration.

13. The acquired land is situate in Thathaneri. In and around the said land, there are house-sites, Fathima College, Office of the Tamil Nadu Housing Board and Koodal Nagar Railway Station. Exs.C1 and C2 sale deeds considered by the Tribunal are anterior in time to the date of Section 4(1) notification. The Tribunal also noted that the lands covered under Exs.C1 and C2 are at a distance. They are away from Thathaneri town. However, the Tribunal is of the view that the market value of the land would be more since the acquired land situate nearer to Madurai Corporation limits, whereas the lands covered in Exs.C1 and C2, are at a distance from the city area was sold for on higher value.

14. It is pertinent to note that near the acquired land, there is oldest Fathima College for women, various Government Offices, a Railway Station. Acquired land

much potential value. Such potential value will also has to be taken into account in arriving at the market value.

15. The lands covered under Exs.C1 and C2, sale deeds, are situate little bid far away from Thathaneri were sold at Rs.5,000/- per cent prior to Section 4(1) notification. Thus, the Tribunal rightly came to the conclusion that the rate will be more for the acquired land in Thathaneri, which is part of Madurai Corporation. Therefore, the Tribunal is right in fixing the rate at Rs.5,000/-per cent.

16. Further, in the facts and circumstances and as the lands are acquired for laying railway line, the question of making deduction towards development charges will not arise.

17. In view of the fore goings, we find no merit in this appeal. Thus, this appeal is dismissed. The Award of the Land Acquisition Tribunal is upheld. In the facts and circumstances, parties are left to bear their respective costs in appeals. The appellant is directed to deposit the entire decretal amount, within six weeks, from the date of receipt of a copy of this Judgment and within two weeks thereafter, the Tribunal shall disburse the entire amount to the claimant.

