

(2014) 11 MAD CK 0047

In the Madras High Court

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

The Special Tahsildar (LA), Karur-Dindigul-Madurai Broad
Gauge Railway Line Scheme, Madurai

APPELLANT

Vs

J. Suseela

RESPONDENT

Date of Decision : 18-11-2014

Acts Referred:

Citation : (2015) 1 MadWN(Civil) 321

Hon'ble Judges : P. Devadass, J.

Bench : Single Bench

Advocate : N. Manoharan, Special Government Pleader, for the Appellant; P.T.S. Narendravasan, Advocate, for the Respondent

Final Decision : Dismissed

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/I Additional Sub-Judge, 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 13.6.1986, 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 Lure.

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 CW1 and Exs.C1 to C4 have been marked. On the Department's side, one Ayyasamy has been examined as DW1 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 to 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 & C2, the surrounding lands were sold at a 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 13.6.1986. Therefore, the relevant date for considering the comparable sale statistic is the period prior to the said date, namely, 13.6.1986. The Landowner 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 its 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 & 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 & 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 & 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 has much potential value. Such potential value will also have to be taken into account in arriving at the market value.

15. The lands covered under Exs.C1 & C2, Sale Deeds, are situated little bit 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 Dev Development charges will not, arise.

17. In view of the foregoing, 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.