

In the Madras High Court

Case No : A.S. No. 147 of 2001 and C.M.P. No. 15666 of 2001

 V_S

Nachiyar and Others

Date of Decision : 09-07-2009

Land Acquisition Act, 1894 – Section 4(1)

Citation : (2009) 07 MAD CK 0375

Hon'ble Judges : M.M. Sundresh, J

Bench : Single Bench

Advocate : K.M. Vijayakumar, Additional Government Pleader, for the Appellant; A. Sivaji, for the Respondent

Judgement

M.M. Sundresh, J.—The appeal has been preferred challenging the judgment and decree of the Reference Court in L.A.O.P. No. 154 of 1993, wherein an enhancement has been made from Rs. 110/- per cent to Rs. 1,800/- per cent.

2. The brief facts of the case are as follows:

An extent of 1.32 acres of land in Survey No. 1238/1, 1.56 acres in Survey No. 1238/2 and 0.32 acres in Survey No. 1238/3 have been acquired for the purpose of construction of houses to the Adi Dravidar people. The Notification u/s 4(1) has been published on 03.06.1992 and the award has been passed in Award No. 11/92-93 dated 22.03.1993. The Reference Court has enhanced the said amount awarded by the Land Acquisition Officer from Rs. 110/- per cent to Rs. 1,800/- per cent. Challenging the same the above appeal has been preferred.

3. The learned Additional Government Pleader submitted that the Reference Court without any basis has rejected the data sale deed under Ex.R4. It is further submitted that the reliance made upon Ex.C3 and C4 are not proper since they are for smaller extent of lands. According to the learned Additional Government Pleader that there is no deduction towards the development charges.

3. On the contrary, the learned Counsel for the respondents/claimants submitted

that there is no dispute about the potential value of the land acquired. It is submitted that the land acquired have been surrounded by fully developed lands both residential and industrial. The learned Counsel also submitted that the sum awarded is just and proper and hence the appeal is liable to be dismissed. The Reference Court has committed an error in rejecting Ex.B4 on the ground that the lands covered under Ex.B4 is agricultural land. Therefore, the reasoning of the Reference Court on that ground is not proper. However, the Reference Court has also given a finding that while fixing the valuation R.W.1 has not seen the acquired land and satisfied himself about the similarities between the data land and the lands acquired. The Court below has also given a finding that the lands covered under Ex.C3 and c4 are situated in the same survey No. as that of the lands acquired.

4. The Court below while relying upon Ex.C3 and C4 has unilaterally increased 25% on the ground of escalation of prices. This Court is of the opinion that without any legal basis, the said enhancement has been made. It is seen that the lands covered under Ex.C3 and C4 are sold approximately at the same time as that of the publication of the Notification u/s 4(1) of Land Acquisition Act. Therefore the reasoning of the Court below that there shall be a further enhancement of 25%, in the opinion of this Court is not legally sustainable. Even assuming the Ex.R4 cannot be taken into consideration and ex.C3 and C4 will have to be taken into consideration, the value mentioned therein is about Rs. 1,350/- per cent only.

5. As rightly contended by the learned Additional Government Pleader the Reference Court has also not taken into consideration towards deductions to be made for relying upon smaller plots and also towards the development charges. It is well settled principle of law as held by the Division Bench of Hon''ble High Court reported in R. Uma Vs. Bank of India that under those circumstances suitable deductions will have to be made. However in the case on hand there is a finding of fact by the Reference Court about the developments made in and around the lands acquired. Hence taking into consideration of the fact, this Court fixes the value of the land at Rs. 1,350/- per cent. Thereafter a deduction of 30% will have to be made out of the same. Therefore, after the said deduction, a sum of Rs. 940/- per cent is hereby fixed.

6. The judgment and decree of the court below is modified by fixing the valuation at Rs. 940/- per cent. In all other aspects the judgment and decree of the Court below is hereby confirmed. It is made clear that the respondents/claimants are entitled to all the statutory benefits as provided under the act. Accordingly the appeal is partly allowed. No costs. Consequently, the C.M.P. is closed. No costs.