(2008) 07 MAD CK 0072

In the Madras High Court

Case No : A.S. No''s. 200 to 203 of 2001

The Special Tahsildar, Land Acquisition, Adi Dravidar Welfare Tirupathur, Vellore District — APPELLANT

Vs

Rajamanickam, Muthammal, Kuppusamy and Duraisamy — RESPONDENT

Date of Decision : 25-07-2008

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

Citation : (2008) 07 MAD CK 0072

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

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

Judgement

G. Rajasuria, J.—These appeals are focussed as against the judgment and decree dated 31.08.1999 passed by the learned Subordinate Judge, Tirupathur in L.A.O.P. Nos. 13, 14, 15 and 16. For convenience sake, the parties are referred to here under according to their litigative status before the Trial Court. Heard both sides.

2. The nut shell of facts which are absolutely necessary and germane for the disposal of these appeals would run thus:

The Government effected publication u/s 4(1) of the Land Acquisition Act for acquiring the lands measuring an extent of 0.12.0; 0.34.0; 0.10.0 and 0.07.5 hectares in S.Nos.371/1B1 and 371/3A; 471/1B; 371/2A; 371/1A and 371/3B1 respectively in Jayapuram Village, Tirupathur Taluk, North Arcot District for the purpose of providing house sites to Adi Dravidar community people. After complying with the procedures, the Land Acquisition Officer acquired the lands and assessed the compensation in a sum of Rs. 544.50 per cent. Being aggrieved by such awarding of the compensation, the land owners got the matter referred to the Sub Court u/s 18 of the Land Acquisition Act.

3. During enquiry before the Sub Court, on the side of the claimants, C.W.1 to

C.W.4 were examined and Exs.A.1 to A.5 were marked. On the side of the respondent, R.W.1 was examined and Exs.B1 to B4 were marked.

4. The Sub Court, ultimately enhanced the compensation from Rs. 85/- per cent to Rs. 1.25 per sq.ft., which works out to Rs. 544.50 per cent.

5. Being aggrieved by and dissatisfied with such enhancement, the Land Acquisition Officer preferred this appeal on the ground that the Sub Court awarded enhancement without adhearing to any norms and objectivity.

6. The point for consideration is as to whether the Sub Court was justified in enhancing the compensation from Rs. 85/- per cent to Rs. 544.50 per cent.

7. A perusal of the judgment of the Sub Court would reveral that it relied on Exs.A1, A4 and A5, the sample sale deeds dated 28.05.1985, 28.02.1985 and 28.02.1985 and gave a finding to the effect that those lands are situated in S.No.417 which are adjacent to the lands acquired. Those deeds would reveal that per square foot of plot area was sold in a sum of Rs. 1.50p. The Sub Court deducted 25p towards development charges and assessed the net value in a sum of Rs. 1.25 per sq.foot (equivalent to Rs. 544.50 per cent). The Sub Court also discarded Exs.A2 and A3 on the ground that the lands referred to therein are situated in S.No.469, which is far off from the land acquired. It is therefore just and necessary to scrutinise as to whether those Exs.A1, A4 and A5 are relating to the lands adjacent to the lands acquired. No doubt, those deeds emerged nearly six months anterior to Section 4(1) Notification and hence, those deeds cannot be treated as cooked up documents. The lower Court correctly discarded the assessment made by the Land Acquisition Officer as he relied upon some earlier sale deeds which cannot be taken as a sound criterion to assess the compensation and that too, in the wake of Exs.A1, A4 and A5. It is quite obvious from the whole kit and caboodle of facts placed before the Sub Court that the lands acquired are having the potentiality of becoming plots and that was the reason why the Government itself did choose to acquire the lands and allot it to Adi Dravidar community people. It is also a fact that in the vicinity, the agricultural lands are being converted into plots. Hence, I could see no infirmity or illegality on the part of the Sub Court in choosing Exs.A1, A4 and A5 as sample deeds for assessing the market value in a sum of Rs. 544.50 per cent. However, I could not countenance and uphold the decision of the Sub Court in having deducted only 25p towards development charges.

8. At this juncture, my mind is redolent and reminiscent with the decision of the Hon''ble Apex Court reported in Lucknow Development Authority Vs. Krishna Gopal Lahoti and Others,

9. A mere perusal of the said judgment would clearly indicate that necessarily there should be deduction towards development charges as His Lordship, distinguished between the land situated in a developed vicinity from the land which itself is a developed one. Here, the lands sought to be acquired u/s 4(1) Notification are measuring an extent of 1.57 acres and for carving out house

sites, necessarily roads, drainage and other facilities should be provided and in such a case, ordering one third deduction from the gross market value would meet the ends of justice. Accordingly, the following formula emerges: Gross market value assessed by the Sub Court Rs. 1.50 per sq.ft.

1/3 deduction Rs. 1.00 per sq.ft.

Net market value per cent Rs. 436.00/-

In the result, the appeal is partly allowed reducing the compensation from Rs. 544.50 to Rs. 436/- per cent. In respect of the remaining part of the judgment and decree of the lower Court, the same shall stand confirmed. It is made clear that the land owners are entitled to other statutory benefits as per law prevailing as on date. No costs.