

(2010) 07 MAD CK 0137

In the Madras High Court

Case No : A.S. No's. 172 to 176 and 182 to 186 of 2007 and M.P. No. 2 of 2007
(5 M.Ps.)

The Special Tahsildar, (Land Acquisition Officer), Adi Dravidar Welfare **APPELLANT**

Vs

Kandan **RESPONDENT**

Date of Decision : 16-07-2010

Acts Referred:

Citation : (2010) 07 MAD CK 0137

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Ravi, Spl. Govt. Pleader, for the Appellant; P.S. Kothandaraman, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—Heard Mr. V. Ravi, learned Special Government Pleader appearing for the appellant and Mr. P.S. Kothandaraman,

learned Counsel appearing for all the respondents in various appeals.

2. All the appeals arise out of common judgment and decree dated 12.11.2003 passed by the Sub Court, Tirupathur in L.A.O.P. Nos. 3 to 12 of

1994. The respective lands of the claimants situated in Konerikuppam village, Tirupathur were acquired for the purpose of providing house-sites to

Adi Dravidars belonging to Madapalli village. The Acquiring Authority fixed the compensation @ Rs. 11,688/- per acre. The landlord has

objected to the low rate of compensation. The matters were referred for determination of market value to the jurisdictional reference Court viz. the

Sub Court, Tirupathur.

3. The following table will show the L.A.O.P. number and the corresponding

appeal numbers and the names of the respondents.

Sl. No. L.A.O.P. No. Appeal Nos. Names of Respondents

1 8 of 1994 172 of 2007 Kandan

2 9 of 1994 173 of 2007 Anbazhagan

3 10 of 1994 174 of 2007 Mani

4 11 of 1994 175 of 2007 Sigamani

5 12 of 1994 176 of 2007 Chinnathambi

6 3 of 1994 182 of 2007 Rajakannu

7 4 of 1994 183 of 2007 1. Kannupaiyan (died)

2. Janaki

3. Annamalai

4. Chandran

5. Sampangi

(R2 to R5 are brought

on record

as L.Rs. of the deceased

sole respondent as per

order dt. 25.3.2008

in M.P. No. 1/2008)

8 5 of 1994 184 of 2007 1. Annamalai (died)

2. Lakshmi

3. Paranjothi

4. Veeramani

5. Anjala

6. Ranchetham

(R2 to R6 are brought

on record as L.Rs. of

the deceased sole respondent

as per order dt. 9.6.2008

made in M.P. No. 1/2008

9 6 of 1994 185 of 2007 1. Manikkammal

2. Baskaran

3. Amudha

4. Chandran

5. Jayakumar

10 7 of 1994 186 of 2007 Arumugam

4. Before the Reference Court, on the side of the respondents/claimants, eleven witnesses were examined viz. C.Ws.1 to 11 and on their side, 4

documents viz. Ex.C.1 and 2 were marked. On the side of the appellant, the Acquiring Officer V. Murugesh was examined as R.W.1 and four

documents viz. Ex.R1 to R4 were marked. The Court below, on the basis of these materials, both oral and documentary, came to the conclusion

that the compensation fixed by the appellant is not adequate and the claimants were entitled for higher rate of compensation.

5. The Court below framed on the basis of the pleadings two issues as below:

(i) Whether the Acquiring Authority vide award dated 23/3/94 in No. 10 of 1993 had fixed the correct compensation and is justifiable? and

(ii) If not, to what compensation each one of the claimants is entitled to?

6. The Court below found Ex.C2, which is marked through C.W.11 Meenakshi, is the sale deed relating to sale of two different lands in survey

Nos. 546/1 and 545/1 bearing total extent of 1 acre 30 cents with a well as well as another land in survey No. 544/1B to the extent of 30 cents

were sold for the value of Rs. 88,770/-, but the market value found in that land was shown as Rs. 1,08,420/-. If the said document Ex.C2 is taken

as basis, then the value of the land per cent comes to Rs. 457.40 which was made as early as 8.2.1991 which roughly worked out to a sq.ft. value

of Rs. 1.04 paise.

7. The evidence of all the claimants also show that since portion of their lands are taken over, the remaining lands available will automatically go

down and nearby lands, many factories and market including cotton markets are in existence. The lands, which are now acquired, can be used as

house-sites. Therefore, they are entitled to get Rs. 2,000/- per cent which approximately works out to Rs. 4.58 paise, but the Court below also

found from the statistical data collected that survey No. 6 which relates to survey No. 128/5 was not perused.

8. On the other hand, sl. No. 6 in Ex.R.3 was produced as a data land but the said land has no comparable value to the lands which are acquired.

In that view of the matter, we found that the compensation ordered was on the lower side and the claimants are entitled for higher compensation.

Though the claimants have requested compensation @ Rs. 4.58 per sq.ft., the Court below found that the lands require development charges and

therefore, 35% was shown as deduction towards development charges and arrived at a figure of Rs. 2.98 which was rounded off to Rs. 3/- per

sq.ft. Therefore, it ordered compensation on the basis that the claimants are entitled for the market value @ Rs. 3/- per sq.ft. It also ordered other

statutory compensation viz. 30% solatium and statutory interest payable by a common judgment dated 12.11.2003.

9. In assailing the said judgment in the Memorandum of grounds of appeal, the contention raised was that Ex.C1 and C2 sale deeds are not

acceptable. Even though they are found acceptable, the Court below ought not to have made it as basis and fixation of Rs. 3/- is exorbitantly high.

In the present case, the acquisition is for the purpose of providing house sites and therefore, while acquiring the lands, the purpose for which the

acquisition is made and the potential value can also be taken note of. In that view of the matter, the compensation was correctly arrived at by the

Court below.

10. The Supreme Court in a recent judgment in Sagunthala (Dead) through LRs. Vs. Special Tehsildar (L.A.) and Others, while laying down the

guidelines for acquisition, made the following observations as found in paragraphs 24 to 26 as follows:

24. In the light of the above material facts this Court feels that the presence of a number of buildings on the lands acquired and the said lands being

occupied by the buildings are to be treated as house sites. The basic purpose that has been traced out in the evidence and as admitted by the RWs

is that the lands were acquired for the purpose of putting up residential quarters. As a portion of the land is being considered as house site, the

adjoining lands have the potential of being put in better use as house sites in the near future.

25. The other important factor is the proximity of the plots to two residential colonites i.e. Anna Nagar and Gandhi Nagar. As it has come on

record that Anna Nagar Colony has about 50-60 houses and Gandhi Nagar Colony has about 150 houses, as such it is reasonable and proper to

conclude that the present lands under dispute were near the residential colonites.

26. It should also be taken into consideration that the disputed lands were situated near the factory premises and further were adjoining the main

road which connects Tanmag Road. As such the aforesaid lands are potential house sites.

11. In the light of the above factual matrix involved, the appeals are mis-conceived and the judgment of the Court below does not call for any

interference. Accordingly, all the appeals are dismissed. In the peculiar circumstances of the case, the parties are allowed to bear their own costs.

Though common judgment is passed in respect of ten appeals, it is made clear that the learned Special Government Pleader is entitled for separate

set of fees. Consequently, the connected M.Ps. are closed.