

(2010) 08 MAD CK 0457
In the Madras High Court
Case No : S.A. No. 1289 of 2006

The Special Tahsildar, Land Acquisition Officer, Adi Dravidar Welfare APPELLANT

Vs

Munirathinam Naidu RESPONDENT

Date of Decision : 18-08-2010

Acts Referred:

Land Acquisition (Amendment) Act, 1978 — Section 8
Land Acquisition Act, 1894 — Section 4(1), 8

Citation : (2010) 08 MAD CK 0457

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : V. Bhavanisubbarayan, Special Government Pleader Assisted by M. Shanthi Rakkappan, for the Appellant; G. Jeremiah, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This second appeal has been filed against the judgment and decree, dated 27.2.2004, made in L.A.C.M.A. No. 2 of 2001, on the file of the Subordinate Court, Ranipet, modifying the award, made in award No. 10/2000-2001, dated 16.3.2001, passed by the Special Tahsildar, Adi Dravidar Welfare, Wallajah.

2. It had been stated on behalf of the appellant that the land measuring about 4.40 acres, comprised in S. No. 181/9 etc., in Thandalam village, Arakkonam Taluk, Vellore District, had been acquired for the purpose of providing house sites to Adi dravidars, vide notification, dated 5.4.2000, issued u/s 4(1) of the Land Acquisition Act, 1894. An enquiry had been conducted, on 26.5.2000, by the land acquisition officer. While taking into account the necessary particulars, the land acquisition officer had noted that the land covered, in S. No. 185/2A, wherein an extent of 1.81 acres of land had been sold for a sum of Rs. 1,81,000/-, vide sale deed, dated 15.12.1999. He had fixed the marked value of the acquired land at Rs. 1,000/- per cent and had passed an award, dated 16.3.2001, bearing Award

No. 10/2000-2001. Since, the respondent was not satisfied with the award passed by the land acquisition officer, he had preferred an appeal before the Subordinate Court, Ranipet, Vellore District, in C.M.A. No. 2 of 2001, claiming enhancement of compensation at Rs. 2,000/- per cent.

3. It had also been stated that the respondent had marked three sale deeds, dated 12.3.1998, 12.6.2000 and 21.12.2000, by which certain lands had been sold to M/s. Larsen & Toubro Limited. The respondent had marked only xerox copies of the said sale deeds. However, the court below, by taking into account the said sale deeds and without assigning any reason, had enhanced the market value of the acquired land from Rs. 1,000/- to Rs. 1,750/- per cent.

4. Aggrieved by the judgment and decree of the Court below, dated 27.2.2004, made in C.M.A. No. 2 of 2001, the present second appeal had been filed before this Court. The second appeal had been admitted on the following substantial questions of law:

i. Whether the Court below had erred in not appreciating the provision of Section 8 of the Act 31/78 wherein it is made clear that in the fixation of determining the amount of compensation, the purpose for which the land acquired shall not be a criteria and nature of land on the date of 4(1) notification shall be a criteria for determining the compensation?

ii. Whether the Court below had erred in placing reliance on document dated 12.3.1998, 12.6.2000 and 21.12.2000 to which the claimant is a party as the vendor and the nature of land sold is a house site?

iii. Whether the Court below had erred in not deducting 1/3rd amount of the market value towards developmental charges as held by the Apex Court reported in 1995 SCC (5) 426 & 1996(2) SCC 538?

5. The learned Counsel appearing on behalf of the appellant had submitted that the judgment and decree of the Court below is contrary to law, weight of evidence and the probabilities of the case. The court below had erred in enhancing the compensation fixed by the land acquisition officer, from Rs. 1,000/- to Rs. 1,750/-, without any basis for the said enhancement.

6. The learned Counsel had also submitted that the court below had erred in not appreciating the fact that the land acquisition officer had fixed the value for land under acquisition at Rs. 1,000/-, based on a comparable sale deed relating to a land of similar nature and location as that of the acquired land.

7. It had also been submitted that the court below had erred in placing undue reliance on a sale deed to which the claimant was a party and the land sold under the said document was a house site, whereas the land under acquisition was, admittedly, a dry agricultural land. It had also been submitted that the court below ought to have deducted 1/3rd of the amount towards developmental charges, as held by the Supreme Court in its decisions, reported in K. Vasundara Devi Vs. Revenue Divisional Officer (LAO), and Special Land Acquisition Officer,

Bangalore Vs. V.T. Velu and Others, . The learned Counsel had also submitted that the court below had not appreciated the provisions of Section 8 of the Land Acquisition Act, 1894.

8. It had also been submitted that the land acquisition officer concerned had passed the award fixing the amount of compensation to be paid to the land owner at Rs. 1,000/- per cent, after taking into account all the relevant factors. However, the court below had fixed the amount of compensation at Rs. 1,750/- per cent, without a proper basis.

9. It had also been submitted that, while fixing the amount of compensation, twenty three sale deeds had been taken into consideration. Sixteen of them had been rejected on the ground that there were variations in the soil quality and in respect of certain other factors. six of the sale deeds had been rejected, as they were relating to the lands, which were situated far away from the land under acquisition. One document, which was in respect of survey No. 185/27, had been taken into consideration, since it was relating to a transaction of the year, 2001, when the acquisition proceedings had taken place.

10. It had also been submitted that there was no proper discussion relating to the reason for the enhancement of the compensation by the Court below.

11. Relying on the decision, reported in The Land Acquisition Officer, Kammarapally Village, Nizamabad District, Andhra Pradesh Vs. Nookala Rajamallu and Others, , the learned Counsel had submitted that the necessary deductions should have been made for the development of the agricultural land acquired for the purpose of providing house sites.

12. Per contra, the learned Counsel appearing for the respondent had submitted that the amount of compensation fixed by the lower Court was based on the relevant factors, contrary to the claim made on behalf of the appellant. Even though the respondent had prayed for the fixing of the amount of compensation at Rs. 2,000/- per cent, the lower court had fixed only 1,750/- per cent for the land that had been acquired from the respondent.

13. The learned Counsel appearing for the respondent had further submitted that the Court below had rightly fixed the solatium at 15% and the interest at 6%. Further, there is no merit in the contentions raised on behalf of the appellant to deduct 1/3rd of the amount, as developmental charges, since, there would have been an appreciation of the value of the land in question, from the date of the sale of a similar portion of the land in the year, 1998. Further, no substantial questions of law arise for consideration of this Court in the present second appeal. He had also relied on the decision reported in The Special Tahsildar, Adi Dravidar Welfare Vs. Muthu Konar, in support of his contentions.

14. In view of the submissions made by the learned Counsels appearing for the appellant, as well as the respondent and in view of the records available, this Court is of the considered view that the appellant had not shown sufficient cause

or reason to interfere with the judgment and decree, dated 27.2.2004, made in L.A.C.M.A. No. 2 of 2001, on the file of the Subordinate Court, Ranipet. Further, this Court is of the view that the court below had taken into consideration the relevant factors before enhancing the amount of compensation to be paid to the land owners.

15. Proper reasons had been shown by the court below for fixing the compensation at Rs. 1,750/- per cent, even though the land acquisition officer concerned had fixed the amount of compensation of Rs. 1,000/- per cent. Nothing has been placed before this Court on behalf of the appellant to show that the fixation of the amount of compensation by the lower court is arbitrary in nature. As such, the second appeal is liable to be dismissed, as devoid of merits. Hence, it stands dismissed. No costs. Consequently, connected C.M.P. No. 10864 of 2006 is closed.