
(1969) 12 MAD CK 0001
In the Madras High Court

The State of Madras

APPELLANT

Vs

M. Chinnasamy and Others

RESPONDENT

Date of Decision : 10-12-1969

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (1970) 2 MLJ 686

Hon'ble Judges : T. Ramaprasada Rao, J

Bench : Division Bench

Judgement

T. Ramaprasada Rao, J.—The State is the appellant and the claimant is the crossobjector. The subject-matter in A.S. No. 380 of 1964

consists of lands in which the owner has an one-third share. The survey numbers acquired in this appeal are S. Nos. 64/2, 64/3, and 92/2.

Reckoning the owner's 1/3rd share therein, he was entitled to an extent of 2.3 acres therein. It is not in dispute that the 67 cents in S. No. 64/2

belonging to the owner, abuts a road and the rest of the properties are interior and not accessible to a public road. In appeal No. 381 of 1964, the

extent of the lands acquired is 2.82 acres in S. No. 109/2. All the above lands are situated in the village of Pattapalayam, Namakkal Taluk, Salem

District, and they were acquired for the construction of the Salem Co-operative Sugar Mills Limited, Mohanur and for the quarters of the staff of

the said Mills. The notification u/s 4 (1) of the Land Acquisition Act (hereinafter called the Act), was made on 20th September, 1961. We may at

once state that prior to the issuance of this notification, there was a similar notification u/s 4 (1) of the Act, but dated 21st April, 1961. Under this

notification, a proposal was made to acquire about 248 acres 44 cents, but later the acquisition was restricted to 150 acres therein. This

acquisition proceedings, after having been dealt with by the usual hierarchy, came up to this Court, and ultimately this Court decided in A.S. No.

674 and 708 of 1963, that a sum of Rs. 2,000 per acre would represent a fair market value of the properties acquired under the notification dated

21st April, 1961. Obviously, from and out of a desire to acquire further extents of land, the present notification u/s 4 (1) of the Act was made on

20th September, 1961 and it appears that more than 30 acres of land were sought to be acquired pursuant to the notification in question. One such

land is the land belonging to the respondents, of which we have already set forth the details.

2. The land Acquisition Officer, after following the prescribed procedure, evaluated the lands at Rs. 1,380 per acre uniformly. On a reference u/s

18 of the Act, made to Court at the instance of the owner, the lower Court awarded at the rate of Rs. 3,000 per acre for the road-side land, of an

extent of 67 cents in S. No. 64/2 and for the rest of the lands in both the appeals, awarded compensation at the rate of Rs. 2,000 per acre.

Though the owners claimed a much larger amount, before the Land Acquisition Officer and the Court below, they in their cross-objections filed

have restricted their claim for the road-side lands at Rs. 5,000 per acre and for the rest of the lands at Rs. 3,000 per acre. The State, who were

the appellants in both the appeals, on the other hand, would say that the compensation awarded by the Court below is excessive and for that

purpose they referred to the Judgment of this Court in. A.S. Nos. 674 and 708 of 1963, and would also refer to the other documents and

evidence in the case, to sustain their contention.

3. We have already noticed that the earlier acquisition which was initiated on the notification date 21st April, 1961, ended in a final decision of this

Court, which awarded a uniform rate of compensation at Rs. 2,000 per acre, for the lands around the acquired lands. From the sketch, Exhibit, B-

1, we are able to find that the lands which were the subject-matter of the first acquisition, as the witnesses would characterise it, in this case, are

very near and contiguous to the plots acquired. This Court gave a compensation of Rs. 2,000 per acre for the lands then acquired. But,, we cannot

ignore the practical fact that the acquisition which was for the location of a sugar factory, did have an impact on the minds of the owners of land in

the vicinity which was reflected in the market price of the lands rising immediately after the first notification. By Way of an illustration, the owners

who have filed a cross-objection in this case, filed Exhibits A-1 and A-2 in the Court below. They relate to sales of small extents of land in S. No.

103/B which fetched a price of Rs. 12,500 per acre and Rs. 10,000 per acre respectively. No doubt, the price is obviously fanciful. But, the point

remains that the impetus in the market price of the land was there and was noticeable, and there was indeed a trend prevailing in the locality

indicative of a higher price than that which prevailed on 21st April, 1961. In Dhusabhai Polabhai and Others Vs. Special Land Acquisition Officer,

Ahmedabad, , the learned Judges, considering a similar position, expressed the view thus:

If a person desires to acquire land or settle down in a place which is full of promise for development and holds out such prospects as slated

above, the desire could not be condemned as a mere speculative desire. There could be nothing unreal or undesirable about it. If the impress of

circumstances such as the establishment of an University, the founding of constituent colleges, building of hostels where the alumni of the University

would reside, raises the tone of the market and gives impetus to the market, a new market rate would be created, may be by even speculation

entering into the said rate, and the transactions would be governed by that rate.

We respectfully adopt the force and intendment of this passage and we would like to add that every transaction indulged in by a person in such

circumstances as above, need not necessarily be characterised as speculative for the reason that every human mind, which is always considered to

be normal until proved otherwise, will take advantage of any favourable situation and exploit it to its benefit. In fact, the learned Judges of this

Court in Marwadi Padmaji Miachand and Others Vs. The Deputy Collector of Adoni, , expressed the view that where on the date of a declaration

there was a scheme of development of the town and that was known generally, enhancement in the value of the market rates consequent on such

development must be taken into account for determining the market value of the land to be acquired.

4. In this case, there is the evidence of R.W. 2 to the effect that "the public came to know of the acquisition only by the notification u/s 4 (1) and

that before Section 4 (1) notification, only officials who had access to the record knew about it." R.W. 1 would say that "the notification for the

present acquisition is five months after the first acquisition, and that all lands adjoining the road went up in prices on account of the first acquisition".

It is well-settled that if two independent notifications are issued u/s 4 (1), one covering a certain extent of land and the other, but later embracing a

certain other extent of land, each notification is independently self-active and not interdependent, notwithstanding the fact that the acquisition is for

a common or the same purpose. The Privy Council in a similar situation, laid down the law in *Ma Sin and Ors. v. Collector of Rangoon* (1929) 56

M.L.J. 795 : L.R. 56 IndAp 210 : AIR 1929 P.C. 126. The learned Law Lords would say that if the Government changed their mind about

acquiring the land and changed the date of the notification from an earlier one to a later date, then the only notification which gave the right to take

the land was the second notification, and therefore that date must be the date taken in determining the amount of compensation to be awarded. We

have only cited this to show that each notification u/s 4 (1) is independent and operates on its own. Therefore, if within the first notification and the

second notification, which according to R. W. 2 was not even known to the public, the prices have increased in this area, then undoubtedly and in

the absence of evidence that such an increase was attributable to wild speculation, it should be considered as representing the prevailing market

rate in the locality.

5. If this were to be the correct position in the reckoning of the market value of the properties acquired compulsorily, then in the instant case the

owners should be given the benefit of such an increase.

6. The question is as to what would be the quantum of benefit to which the owners would be entitled. This Court, in Appeal Nos. 674 and 708 of

1963, fixed the market value of the surrounding lands at Rs. 2,000 per acre. The second notification, if we may characterise it so, which is the

notification in question in these appeals, was five months after the first notification. Taking this and the impetus in the market and the atmosphere

prevailing during that period reflecting the increase in the market rate of land, we consider (that the road-side lands (67 cents in S. No. 64/2) should

be evaluated at Rs. 3,500 per acre and the other lands other than the road-side

lands be evaluated at Rs. 2,500 per acre. The applicants will be entitled to the usual solatium.

7. In the view held by us, that the cross-objectors are entitled to a higher quantum of compensation, the appeals fail and they are dismissed. The

Memoranda of cross-objections are partly allowed. But, as neither party has succeeded in full, there will be no order as to costs in both the appeals.