
(1971) 04 MAD CK 0029
In the Madras High Court
Case No : Appeal No's. 162 to 164 of 1964

The State of Madras	Vs	APPELLANT
P. Seetharamammal and Another		RESPONDENT

Date of Decision : 20-04-1971

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 4(1)

Citation : AIR 1972 Mad 170 : (1972) 85 LW 158

Hon'ble Judges : Venkataraman, J;Gokulkrishnan, J

Bench : Division Bench

Judgement

Venkataraman, J.—These three appeals have been filed by the State of Madras against the judgment of the learned Judge of the City Civil

Court, Madras, awarding compensation in respect of the lands acquired by the Government for rehabilitating the persons displaced from

Ganapathinagar Colony, Guindy. The lands were vacant and were near Chamiers Road. Aggrieved by the award of the Land Acquisition officer,

the persons whose lands were acquired got a reference made to the City Civil Court, and the learned Judge enhanced the amount of compensation

payable and fixed the compensation at the rate of Rs. 4000 per ground. In addition, he granted a sum of Rs. 5000 to the claimants in two cases, L.

A. C. 38 and 441 of 1961 for the injury sustained by them in respect of the properties still remaining in their hands on account of the acquisition of

the plots in question. Similarly, in respect of another claim, he awarded a compensation of Rupees 1000 under this head. Aggrieved by this

decision the Government has preferred these appeals. They contend that the award of Rs. 4000 is excessive and that there is no justification for the

award of compensation for the other properties having been injuriously affected.

2. With regard to the first point, we wish to observe that the notification u/s 4(1) of the Land Acquisition Act, was made on 23-12-1959, and that

the learned Judge of the City Civil Court took into account the value of the land about half a furlong away as disclosed by the sale deed dated 16-

10-1959 (Ex. R. 4) in Survey No. 3918/1 of an extent of 3 grounds and 1241 sq. ft. for Rs. 14,964, which worked out to Rs. 4,320 per ground

and made a deduction of about Rs. 320 on account of the fact that the property acquired was somewhat in the interior, about half of a furlong from

the other property.

3. Thiru G. Ramaswami, the learned Additional Government Pleader, has brought to our notice that there are other sale deeds where the prices

paid would work out to much less than Rs. 4320. But we find that their Lordships of the Supreme Court have laid down in *Rani of Vuyyur v.*

Collector of Madras, 1969 1 MLJ 45, that the highest value should be preferred to the rest, unless there are strong circumstances justifying a

different course,. They observe--

Whatever that may be it seems to us to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the

Government, that representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course.

In this case no such circumstances are placed before us. Thiru Ramaswami then urged that the learned Judge of the City Civil Court had not made

any specific deduction of laying out roads. The learned Government Pleader submitted that the area acquired was not a developed area and roads

had to be formed, that consequently some deduction would have to be made for the cost of the roads which would not be proper to value

undeveloped land at the same rate as developed land. In this connection he cited the decision of a Bench of this Court in *State of Madras Vs.*

Balaji Chettiar and Others, , where it has been pointed out that normally a deduction of 10 to 25 per cent. would be proper on account of this

circumstance. We are, however, inclined to think that though no specific reference on this aspect has been made in the judgment of the learned

Judge of the City Civil Court, he must have had this factor also in his mind when he made a deduction of Rupees 320 per ground. In any case, we

are satisfied that in this particular case the valuation adopted by the learned

Judge is substantially fair and does not call for interference. We, therefore, confirm the valuation of Rs. 4000 per ground.

4. Regarding the other point, C1. 4 of Section 23 of the Land Acquisition Act, 1894 says that, in determining the amount of compensation to be awarded for land acquired under the Act, the Court shall take into consideration the damage, if any, sustained by the person interested at the time of the collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property moveable or immovable in any other manner or his earnings.

5. The reason by the learned Judge for awarding compensation under this head is difficult to follow. The learned Judge observes--

At the same time I must admit that the Rajkumar of Pithapuram who was the first claimant in L. A. C. 44 of 1961 and who is now deceased and

who as I already said is now represented by his widow the second claimant therein is a highly respectable person and therefore entitled to a

reasonable amount of compensation for injurious affection caused to him and his family by the separation of these lands that have been acquired

from other lands containing their family house. In my opinion Rs. 5000 will be very reasonable amount that can be awarded as such compensation.

As regards the claimants in L. A. C. 39 of 1961 and 45 of 1961 they certainly cannot occupy the same position in society as the Rajkumar of

Pithapuram. Nevertheless they also will be entitled to compensation for such injurious affection as it cannot be disputed that they had planned to

put up a big building for their family home in the lands acquired. In the circumstances I am inclined to hold that Rs. 1000 will be a decent and

reasonable compensation for the injurious affection caused to them.

It has not been made out before us that the family house of the representative of the Rajkumar of Pithapuram is so near the land that has been

acquired that as a result of the acquisition the amenities of the family house would substantially be diminished. The mere status of the claimant

would not be a relevant factor. Hence the grant of Rs. 5000 in L. A. C. 44 of 1961 cannot be justified. Similarly in L. A. C. 39 and 45 of 1961

merely because the claimant intended to put up a big building for their family house, they would not be entitled to claim compensation under the

provision in question.

6. We accordingly set aside the grant of compensation under this head at the rates of Rs. 5000 and Rs. 1000 per ground. We allow the appeal of the Government to this extent. The parties will bear their costs in the appeal
... ..

(Judgment 20-4-1971):--

The office has put up a note as a result of which we have heard the learned counsel on both sides. We find that some mistake has arisen in the

previous judgment dated 1-2-1971. Thus in the concluding portion it is stated, ""we accordingly set aside the grant of compensation under this head

at the rates of Rs. 5000 and Rs. 1000 per ground."" The compensation relates to the portion not acquired being injuriously affected by the

acquisition. the compensation of Rs. 5000 per ground. So also the compensation of Rs. 1000 is an ad hoc figure and not at the rate of Rupees

1000 per ground. Hence the words ""per ground"" in the sentence mentioned above will be deleted. Another slight mistake has occurred in page 1 of

the order by mentioning that this compensation of Rupees 5000 is claimed in two cases, L. A. C. Nos. 38 and 44 of 1961. Actually, it was

claimed only in L. A. C. 44 of 1961 and not in L. A. C. 38 of 1961. In the next sentence it is stated ""Similarly in respect of another claim, he

awarded a compensation of Rs. 1000 under this head."" This compensation relates to L. A. C. 39 and 45 of 1961. It is joint claim and hence that is

a correct. The earlier judgment will be read subject to this.

7. Appeal allowed.