(2008) 01 MAD CK 0208

In the Madras High Court

Case No : A.S. No. 810 of 1996

Union of India (UOI) APPELLANT

Vs

S. Govindasamy RESPONDENT

Date of Decision : 10-01-2008

Acts Referred:
Land Acquisition Act, 1985 — Section 18, 23, 4(1)

Citation : (2008) 01 MAD CK 0208

Hon'ble Judges : S. Tamilvanan, J

Bench : Single Bench

Advocate : T. Murugesan, Spl. G.P, for the Appellant; L.O.M. Magesh, for the Respondent

Final Decision : Dismissed

Judgement

S. Tamilvanan, J.—This appeal has been preferred against the judgment and decree made in L.A.O.P. No. 4 of 1989 dated 27.02.1995 on the file of the Principal District Judge, Pondicherry.

2. It is an admitted fact that the land in R.S. No. 22/8 of an extent of 21 Ares and 40 centiares in Odiampet village of Vilayanoor, Pondicherry State, was acquired for the purpose of forming an electrical sub-station, for which notification u/s 4(1) of the Land Acquisition Act was made on 24.12.1985. The land acquisition officer had fixed the market value at Rs. 262/- per Are. The respondent claimant received the amount under protest and at his request the matter was referred u/s 18 of land Acquisition Act.

3. Before the land acquisition Tribunal the claimant was examined as P.W. 1 apart from marking Exs. A1 to A4. The Land Acquisition Officer was examined as R.W. 1. On the side of the appellant herein Exs. B1 to B10 were marked. Considering the oral and documentary evidence, the land acquisition Tribunal enhanced the compensation by fixing the market value at Rs. 1,401/-per Are apart from awarding 12% additional amount 30% solatium and interest as per Section 23 of

the Land Acquisition Act. Aggrieved by which the appeal has been preferred by the State/Union Territory of Pondicherry, represented by Secretary to Government, Revenue Department, Pondicherry.

4. Mr. T. Murugesan, learned counsel appearing for the appellant submitted that the Tribunal has awarded exorbitant compensation for the acquired land. The contention of the learned counsel for the appellant is that the Tribunal has taken the sale price of a land in S. No. 149, Kurumbapet village, though the acquired land is in Odiampet village. Further the land relating to the data sale deed taken for consideration by the Tribunal, has been classified as wet land. Whereas the acquired land is only a dry land and therefore, according to the learned counsel for the appellant the market value fixed was on the higher side.

5. On the contrary, Mr. L. OM Magesh, learned counsel appearing for the respondent would contend that both the data land and the acquired land are similarly placed lands. According to the learned counsel, for the very same purpose, some other land in S. No. 151/1A, Odiampet Village was acquired and in that case, the compensation was decided at Rs. 10,000/-per plot. But, however, there is no cross appeal by the respondent. Further, there is no evidence available to show that it is also a similarly placed land and was subject to the very same award proceedings and/or covered by the very same notification issued u/s 4(1) of the Land Acquisition Act, and therefore the aforesaid submission cannot be taken into consideration.

6. It is seen from the impugned judgment that though the land in S. No. 149 is classified as wet land which is situated in Kurumbapet village on the northern side of the road and the acquired land in S. No. 22/8 is on the southern side of the road situated in Odiampet village, both are similarly placed lands as shown in the topo sketch, Ex. B3. It is not in dispute that the land was acquired only for formation of electricity sub-station. Therefore, dry land is more suitable than the wet land since for the wet land, they have to incur expenses towards developmental charges and therefore on the facts and circumstances, the classification of the acquired land as dry land and the data land as wet land, could not be a significant feature in this case. Ex. A1 is the copy of the sale deed dated 14.02.1976 whereby the sale consideration was paid at Rs. 5,075/- for the land situated at Kurumbapet village bearing S. Nos. 270/2 an extent of 25 Kulizhi and 4 visam. As per the evidence of P.W. 1 and the document, the sale consideration for the land was at Rs. 1,250/-per kuzhi. Considering the documents Exs. A1 and A2, the Tribunal has held the market value of the acquired land at Rs. 1,401/-per are, i. e. at the rate of Rs. 750/-per kuzhi for 21 Ares and 40 centiares. In respect of the claim, the respondent/claimant has also produced a photo copy of the order passed in L.A.O.P. No. 26 of 1989 dated 18.07.1989 and the same was marked as Ex. A3 and also the photo copy of the judgment passed in L.A. No. 5 of 1987 dated 11.03.1993 on the file of the District Judge, Pondicherry, was marked as Ex. A4. The aforesaid two documents relates to the order passed by the District Judge some other land acquisition

original petitions. Therefore, the aforesaid documents cannot be relied upon directly. The appellant as R.W. 1 has produced topo sketch marked as Ex. B3 and a copy of the award dated 16.02.1985 in award No. 4/88 has also been marked as Ex. B4. The Land Acquisition Officer has decided his conclusions on the sale deed dated 19.04.1984, whereby the respondent purchased the land from one Mr. Natesan and others. Considering the market value, when there are sale deeds relating to similarly placed lands prior to the date of 4(1) notification, by the land acquisition officer, the land acquisition Tribunal should fix the market value on the basis of the sale, which is beneficial to the claimant.

7. In the instant case, considering the oral and documentary evidence, I could find no error or infirmity in the impugned judgment passed by the land Acquisition Tribunal in fixing the market value of the acquired land, at Rs. 1,401/- per are. Considering the market value of a similarly situated land, as per the sale that had taken place prior to the date of 4(1) notification, and as discussed by the land acquisition tribunal, it is clear that though the land in S. No. 149 has been classified as wet land and the acquired land as dry land, it is seen that both are similarly placed lands. One is abutting on the northern side of the road and another is abutting the road on the southern side. Therefore, I am of the view that the Court has fixed the market value of the acquired land, based on the oral and documentary evidence available on record. In addition to the market value, the Tribunal has directed the appellants to pay 12% additional amount from 25.02.1996, the date of 4(1) notification to 16.10.1996 taking over possession of the land, at 30% solatium and interest for one year at 9% and for the subsequent period 15% interest less the amount already paid to the claimant. In the aforesaid circumstances, I am of the view that the Tribunal has rendered its judgment in order to provide a just and reasonable compensation to the respondent/claimant, which warrants no interference by this Court.

8. In the result, the judgement and decree passed by the Tribunal are confirmed and the appeal is dismissed. However, there shall be no orders as to the costs.

