

N.Krishna Moorthy .. and ors. Vs. the Special Tahsildar.

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Court : Chennai

Decided On : Jul-26-2010

Judge : K.Chandru, J.

Acts : [Land Acquisition Act, 1894](#) - Section 54

Appeal No. : Appeal Suit Nos.149, 150 and 164 of 2007

Appellant : N.Krishna Moorthy .. and ors.

Respondent : The Special Tahsildar.

Advocate for Def. : Mr.V.Ravi, Adv.

Advocate for Pet/Ap. : Mr.B.Ullasavelan, Adv.

Judgement :

1. Heard Mr.Ullasavelan, learned counsel for the appellants and Mr.V.Ravi, learned Special Government Pleader (AS) for the respondent.
2. These appeals were filed by the appellants challenging the judgment and decree passed by the Additional Sub Judge, Cuddalore in LAOP Nos.21, 23 and 22 of 1996. By a common judgment dated 3.2.2005, the Reference Court fixed the market value payable for the lands of the appellants at the rate of Rs.33,000/- per Acre (Rs.333/- per Cent). The Initial compensation fixed by the acquisition authority was Rs.20,000/- per Acre, which worked out to Rs.200/- per Cent. The aggrieved appellants raised objection with reference to the fixation of

compensation by the respondent/acquiring authority and the matter was referred under section 18(1) of the Land Acquisition Act for determination of the market value by the reference court. The Reference Court registered the reference as LAOP Nos.21/1996, 23/1996 and 22/1996. Before the Reference Court, on the side of the appellants, one Vaidyanathan, the land owner, the claimant in LAOP No.22/1996 (A.S.No.164/2007) was examined as C.W.1. On their side two documents were filed as Ex.C.1 and Ex.C.2. On the side of the respondent/acquiring authority, the former Special Tahsildar, (Adi Dravidar Welfare), Cuddalore was examined as R.W.1 and on their side, 4 documents were filed and marked as Ex.R.1 to R.4. The documents filed by the appellants are Ex.C.1, which is the Sale Deed dated 13.7.1987 and Ex.C.2, which is the Sale Deed dated 19.8.1987. The Reference Court while considering the evidence found that the Ex.C.1 was in relation to 0.2-1/8 vacant land, which was sold at Rs.1,500/- . Therefore, the court considered that it was an exemplar of small area. With reference to Ex.C.2, it found that 0.4-1/2 Cent vacant land was sold at Rs.2,000/- and therefore it took Ex.C.2 as the basis for arriving at the compensation by rejecting the stand of the acquiring authority and ordered enhancement of the compensation. Since Ex.C.2 was taken as the basis, the Reference Court also found that the acquisition in this case was for grant of house sites for Adi Dravidars of their Village and the finding was that they are agricultural lands. Even as per the admission of C.W.1, the lands are good agricultural lands and they are already growing Sugar Cane, Ragi, Paddy and other Millets in that area and they are having Well and pump set in the lands. Therefore, the Reference Court held that for the purpose of converting the land into house sites, it may require development charges. Therefore, it ordered deduction of 25% towards the development charges. If Ex.C.2 is taken as the basis, then the market rate worked out to Rs.444/- and if 25% deduction towards development charges are made, then the value of it comes to Rs.333/- per Cent and therefore it ordered compensation on the basis of Rs.333/- per Cent. By a common judgment dated 3.2.2005, the acquiring authority did not challenge the same. It is only the claimants who come on appeal.

3. Mr.Ullasavelan, learned counsel for the appellants contended that once Ex.C.2 is taken as the basis, then the compensation should be worked out to Rs.444/- per

Cent and the deduction of 25% towards development charges is arbitrary and not contemplated under law. He further submitted that the land owners in order to resist the compensation contended that it was only an agricultural land and therefore that should not be taken to deny them the genuine relief claimed by them.

4. In the present case, it must be stated that whatever the reasons now advanced by the appellants before this Court, the evidence let in before the trial court was that the lands were agricultural lands and C.W.1 contended that he was getting Rs.40,000/- from the lands per year and even as per the reply statement filed by them before the referring officer. Therefore, it is too late to resile from the said contention. On the question of collecting development charges, it cannot be said that the said calculation is alien to the fixation of the market value. Fixation of market value of the land is determined by the provisions of the [Land Acquisition Act, 1894](#) and Sections 23 and 24 deal with the guidelines by which such a market value can be arrived at. In fact under section 24 of the Act, the factors for determining the market value has been set out and the 7th guideline regarding the improvement of the land acquired can be the relevant factor for deduction.

5. The Supreme Court vide its judgment in Kanta Devi and others vs. State of Haryana reported in (2008) 15 SCC 201 held that it is open to the acquiring authority to determine the development charges and in that case, the Court also directed that the normal deduction may be 1/3rd of the market value. In the present case, the Reference Court has deducted only 25%, which is only <. Therefore, no exception can be taken for such a deduction made by the Reference Court.

6. Under the circumstances, this Court is not inclined to entertain all the three appeals. Hence, all the appeal suits stand dismissed. However, under the peculiar facts and circumstances of the case, the parties are allowed to bear their own costs.