

(2017) 08 MAD CK 0016

MADRAS HIGH COURT

Case No: 41 of 2007 and M P (MD) No 1 of 2007

The Special Tahsildar Adi
Dravidar Welfare Paramakudi

APPELLANT

Vs

Muthiah

RESPONDENT

Date of Decision: Aug. 22, 2017

Hon'ble Judges: T.Ravindran

Bench: SINGLE BENCH

Advocate: T.Ravindran

Judgement

1. The civil revision petition is directed against the Judgment and Decree, dated 01.11.2000, passed in C.M.A.No.27 of 1997, on the file of the

Sub Court, Ramanathapuram.

2. It is found that the lands of the respondent were acquired by the Government for the welfare of the harijans after following the procedures

contemplated under the Land Acquisition Act and subsequently, after taking into consideration the value of the lands nearby, it is found that the

Referring Officer had fixed the value of the lands in question at the rate of Rs.17,700/- per Acre and thereby in toto, fixed the value of the lands

acquired at Rs. 63,508/-. As the respondent is one of the co-owners of the lands acquired, it is found that as regards his share, the value had been

fixed at Rs.21,169/-. On raising a dispute by the respondent over the quantum of compensation fixed by the Referring Officer, the matter was

referred to the Sub Court, Ramanathapuram, by way of an appeal and it is found that the claimant has put forth a case that Paramakudi -

Mudhukulathur main road is situated just nearby to the lands acquired and further plots are also located and other facilities such as State Bank,

Schools, Telephone facilities etc., are located nearby the lands acquired and therefore, it is stated that the potential value of the lands acquired is on

the higher side and further according to the respondent, the lands nearby to the lands acquired had been alienated for higher value and without

taking the same into consideration, the Referring Officer had fixed the value at a very low level and hence, prayed for the enhanced compensation.

According to the respondent, the value of the lands should have been fixed at the rate of Rs.15,000/- per Cent. Per contra, it is the case of the

Referring Officer that the value of the lands has been correctly determined taking into account the value of the adjacent lands and therefore, the

value fixed in the award should be confirmed.

3. It is found that in support of the respondent's case, P.Ws.1 to 3 were examined and Exs.P1 and P2 were marked and on the side of the

Referring officer, R.W.1 was examined and Exs.R1 to R5 were marked.

4. The respondent in support of his contentions that the lands nearby to the acquired lands had been sold for a higher price has marked Exs.P1 and

P2 and from Ex.P1, it is stated that the property covered therein had been alienated in favour of Flora Mary by Fathima at the rate of Rs.2,180/-

per Cent and also relied upon Ex.P2, wherein the property covered therein had been alienated in favour of Noor Ilavia Banu at the rate of

Rs.2,440/- per Cent and hence, according to the respondent, inasmuch as the above lands covered under Exs.P1 and P2 are located ? kilometer

away from the acquired lands, the value of the acquired lands should be fixed at the rate of Rs.15,000/- per Cent. In this connection, the attesting

witness of Ex.P2 has been examined as P.W.2 and the attesting witness in respect of Ex.P1 has been examined as P.W.3 and they have also

deposed in favour of the respondent as regards the consideration passed under Exs.P1 and P2.

5. The witness examined on the side of the Referring Officer as R.W.1 has deposed that the value of the nearby lands has been taken into

consideration and with reference to the same, the documents marked as Ex.R2 has been pressed into service and according to him, inasmuch as

the property covered under Ex.R2 has been conveyed at the rate of Rs.17,700/- per Acre and the said land is situated just two furlong away from the lands acquired, the same has been taken into consideration and therefore, it is stated that the value determined by the Referring Officer is correct and it does not require any interference.

6. The Court below, on a consideration of the sale transactions placed on behalf of the respondent marked as Exs.P1 and P2 and also the sale transaction put forth by the Referring officer marked as Ex.R2 and finding that the value of the property covered under Exs.P1 and P2 are on the higher side and whereas the value fixed under the sale transaction marked as Ex.R2 is at the low level and further holding that the lands acquired are having various advantages and facilities as put forth by the respondent and further also holding that the market value of the lands acquired would go further and also taking into consideration the sale transactions covered under Serial Nos.5 and 51 as reflected in Ex.R5, fixed the value of the lands acquired at the rate of Rs.2,000/- per Cent. Challenging the same, the present civil revision petition has been preferred.

7. The following points arise for consideration in this civil revision petition:

- i. Whether the compensation fixed by the Court below for the lands acquired is just and correct? and
- ii. To what relief the civil revision petitioner is entitled to?

POINT NO.I:

8. As rightly argued by the learned Additional Government Pleader, the above determination of the value by the Court below is found to be only on a comparative reading of the value given in the transactions of the above mentioned sale deeds. The Court below has not clearly pointed out as to whether the lands acquired have similar characteristics and quality of the lands covered under the above mentioned sale transactions and whether the same advantages also are obtained with reference to the lands acquired as of the lands covered under the above mentioned transactions, therefore, according to him, it is contended that the value fixed by the Court below is on the higher side and requires to be modified.

In this civil revision petition, there has been no representation on behalf of the respondent. As rightly put forth by the learned Additional

Government Pleader, the Court below has not given acceptable and valid reason as such for fixing the value at the rate of Rs.2,000/- per Cent

other than making the comparative study of the value covered under the transactions above referred to.

9. Considering the materials placed in the matter and also the potential value of the lands acquired and the advantages pertaining thereto and the

location thereof and also the value of the sale transactions located nearby the lands acquired as placed before the Court below, it is found that the

value of the lands acquired would be correct, if it is fixed at the rate of Rs.1,200/- per square feet. So calculated, it is found that the lands of the

respondent, measuring an extent of 01 Acre 04 Cents, it is found that the value of the above said lands would come to Rs.1,24,800/- and adding

30% solatium to the same, it is found that the total value of the acquired lands would come to Rs.1,62,240/-. As far as the quantum of interest to

be paid on the enhanced compensation, as determined by the Court below, the interest shall be 12% from 23.05.1997 i.e., the date of 4(1)

notification till 20.08.1997 i.e., the date of the award and 9% from 21.08.1997 for a period of one year and 15% from 21.08.1998 onwards till

the amount is deposited in the Court. The revision petitioner is directed to deposit the amount, less the amount already deposited, if any.

Accordingly, Point No.I is answered.

POINT NO.II:

10. In conclusion, the Judgment and Decree, dated 01.11.2000, passed in C.M.A.No.27 of 1997, on the file of the Sub Court, Ramanathapuram,

are modified and the compensation for the lands acquired is fixed at Rs.1,200/- per square feet and accordingly, the value of the lands is arrived at

Rs.1,24,800/- and adding 30% solatium to the same, it is found that the total value would come to Rs.1,62,240/-. As far as the quantum of interest

to be paid on the enhanced compensation, as determined by the Court below, the interest shall be 12% from 23.05.1997 i.e., the date of 4(1)

notification till 20.08.1997 i.e., the date of the award and 9% from 21.08.1997 for a period of one year and 15% from 21.08.1998 onwards till

the amount is deposited in the Court. The revision petitioner is directed to deposit the amount, less the amount already deposited, if any.

Accordingly, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.