

(2009) 07 MAD CK 0442
Madras High Court (Madurai Bench)
Case No: A.S. No. 697 of 1999

The Special Tahsildar, (Adi
Dravidar Welfare)

APPELLANT

Vs

V.S. Rajagopal

RESPONDENT

Date of Decision: July 22, 2009

Hon'ble Judges: M.M. Sundresh, J

Bench: Single Bench

Advocate: K.M. Vijayakumar, Addl. Govt. Pleader, for the Appellant; T. Srinivasa Raghavan,
for the Respondent

Final Decision: Allowed

Judgement

M.M. Sundresh, J.

The appeal has been preferred challenging the judgment and decree of the Reference Court, wherein the Reference Court has enhanced the compensation fixed by the Land Acquisition Officer from Rs. 147.27/- per cent to Rs. 1,165/- per cent.

2. The brief facts of the case are as follows:

An extent of 1.77.5 hectares of land situated in Survey No. 350/1B in Ambasamudram Village, Tirunelveli District has been acquired for the purpose of construction of houses to the Adi Dravidar people. The Land Acquisition Officer has fixed a sum of Rs. 147.27/- per cent in his award. Challenging the same, the respondent/claimant sought a reference and the Reference Court has enhanced the valuation at Rs. 1,165/- per cent. Being aggrieved against the enhancement fixed by the Reference Court, the present appeal has been filed.

3. Before the Reference Court, the respondent has marked four documents in Ex.C1 to c4 claiming a sum of Rs. 3,600/- per cent. The respondent has also examined P.W.1 to P.W.3 in support of his case. The appellant has marked Ex.B1 to B3 in support of his case and examined R.W.1 on his side.

4. The Court below has fixed the amount of compensation at Rs. 5,17,216/- and challenging the same, the above appeal has been filed. The learned Additional Government Pleader submitted that the Court below has not taken into account Ex.C1 to C3 for fixing the valuation. According to the learned Additional Government Pleader without any basis the Court below has enhanced the amount fixed by the Land Acquisition Officer by eight times. It is also submitted that the fixation has no legal basis and such a method adopted by the Court below is not permissible in law. It is further submitted that the Court below has not taken into consideration about the statutory deductions to be made for development charges and for relying upon documents which are for smaller extent of land.

5. The learned Counsel for the respondent submitted that a perusal of Ex.C1 to c4 would show that the valuation mentioned therein is very high and therefore the order passed by the Court below will have to be sustained. According to the learned Counsel, there is an admission by the appellant about the potential value of the land and therefore the judgment and decree of the Court below will have to be sustained.

6. After going through the judgment of the Court below, this Court finds that unilaterally and without any legal basis, an enhancement of eight times over and above the valuation fixed by the Land Acquisition Officer has been made by the Reference Court. The Reference Court has also not taking into consideration of the documents filed by both sides. The Reference Court has to exercise his power under the Land Acquisition Act and based upon settled principle of law laid down by the higher Courts. The fixation of value by merely taking into consideration of the potentiality of the land by increasing the same to eight times than the one fixed by the Land Acquisition Officer is not legally permissible. Therefore, this Court is of the opinion that under those circumstances, the judgment and decree of the Court below will have to be set aside and the Court below will have to be directed to decide the issue of compensation afresh in accordance with law by taking into consideration of the material available before the Court. Hence while remanding, the parties are at liberty to file additional documents if any in support of their respective contentions.

7. Therefore, the judgment and decree of the Reference Court in L.A.O.P. No. 13 of 1997 dated 26.04.1999 is hereby set aside and the Court below is directed to take L.A.O.P. No. 13 of 1997 on file and decide the matter afresh in accordance with law within a period of six months from the date of receipt of copy of this judgment. The appeal is allowed accordingly. No costs.