

The State of Madras

Vs

A. M. Nanjan and Another

Civil Appeals Nos. 1212 and 1213 of 1968

(P.K. Goswami, Syed M. Fazal Ali JJ)

09.02.1976

JUDGMENT

GOSWAMI, J. -

1. The only question that arises for consideration in these appeals by certificate of the High Court of Judicature at Madras relates to the quantum of compensation with regard to acquisition of 18.34 acres of land in Mulligoor village, Nilgiris district, belonging to the respondents.

2. The land in question was acquired for the purpose of a hydroelectric scheme at Kundah. A notification under Section 4(1) of the Land Acquisition Act, 1894, was duly published on May 1, 1957. This land was purchased by the respondents' father by a sale deed (Ext. B-1) of February 22, 1951, for a consideration of Rs. 4,218/4/- from the Nilgiris Wattle Plantations Limited. The rate at which purchase was made was Rs. 230 per acre. The Collector awarded compensation at the rate of Rs. 500 per acre. On a reference at the instance of the claimants (respondents herein) the Subordinate Judge raised the compensation to Rs. 1,800 per acre. The State as well as the claimants appealed to the High Court against the judgment and decree of the Subordinate Judge. By a common judgment the High Court dismissed the State's appeal and partly allowed the claimant's appeal by raising the rate of compensation to Rs. 3,000 per acre. That is how the two appeals are filed by the State with certificate from the High Court.

3. The learned Solicitor General appearing on behalf of the State submits that the High Court erred in law in raising the rate of compensation without any basis and merely on speculation. He particularly draws our attention to an observation of the High Court in the judgment to the effect :

... the Court has necessary to speculate as to how much the value has increased. Sometimes the Court is obliged to indulge in fair measure of conjecture in regard to the fixation of values . . . .

4. However, when we read the entire observation of the High Court with regard to the aspect of compensation we are unable to hold that the High Court based the compensation on mere speculation or conjecture. The High Court has clearly observed that

... fortunately in this case our decision need not depend upon mere speculation or conjecture as there are materials which as far as possible afford a correct basis for fixing the approximate market value.

5. The learned Solicitor General next draws our attention to the various sale deeds produced in the case and took objection to the High Court's placing undue importance on two awards (Exts. B-10

and B-11) dated September 27, 1956 and March 30, 1957, respectively. According to the learned Solicitor General these two awards are with regard to land at a place called Kil Kundah about ten miles from the acquired land and cannot be said to be comparable land for the purpose of assessment of compensation. According to the first award (B-10) the rate per acre was Rs. 3,000 and according to the second one (B-11) the rate awarded was Rs. 5,263 per acre. He also submits that the sale deed (Ext. A-7) of September 27, 1955, which appertains to land in identical village Mulligoor and which shows the consideration of Rs. 5,000 for one acre of land should not have been taken as a guide in view of the fact that the area was small with a large number of wattle trees and it was a speculative transaction.

6. There are three other sale deeds which the High Court took into consideration, namely, Exts. A-8, A-9 and A-10 which were transactions between March, 1956 and June, 1956. The land involved in these transaction was situated in Bikatti village about four miles from the acquired land. The village itself is only 2 to 4 furlongs from Mulligoor. The rate per acre for these lands in 1956 was Rs. 6,000. The learned Solicitor General submits that these lands were sold as house sites and therefore cannot be safe guides for the type of the land acquired. The learned Solicitor General also objected to the flat rate of Rs. 3,000 granted by the High Court without due regard to the quality or classification of the land. He points out that even in the award Ext. B-10 all the lands were not priced at the same rate per acre. The rates varied from

Rs. 300 to Rs. 5263 per acre considering the fertility of the soil of the fields, their location, importance and registration statistics ....

Even so, the Land Acquisition Officer fixed the value of the land at Rs. 3,000 per acre in the said award taking into consideration several sale deeds. He even fixed Rs. 5,000 per acre for 30 acres of land having regard to bona fide sale sanction of a portion of the land covered by the same survey number.

7. We are unable to accept the submission that the awards in question cannot be taken as safe guides in the matter of determination of compensation. As a matter of fact these awards given by the Collector are at least relevant material and may be in the nature of admission with regard to the value of the land on behalf of the State and if the land involved in the awards is comparable land in the reasonable proximity of the acquired land, the rates found in the said documents would be a reliable material to afford a basis to work upon for determination of the compensation on a later date. The awards, therefore, cannot be dismissed as inadmissible for the purpose of determination of the compensation.

8. Mr. Natesan, learned Counsel for the respondents, has taken us through the evidence of the witnesses examined on behalf of the appellant and we find from a perusal of the same that the High Court cannot be said to take an erroneous view when it observed as follows :

But witnesses examined on the side of the Government have admitted that even close to survey No. 9/1, the acquired land, there are facilities like bus-stops, shops etc. From the evidence it is fairly clear that Mulligoor area is not less prominent than Kil-Kundah or Bikatti area .... Kil-Kundah, Bikatti and Mulligoor are within short distance of one another and, it would not be proper to weigh the comparative value of the lands in the locality on delicate scales. It could reasonably be said that they are all of about equal value.

9. We are satisfied after examination of the evidence and the documents that having regard to the

location, advantages and facilities of the land and to the admitted rise of price of land between the years 1951 and 1957, it cannot be said that the High Court was far wrong in raising the compensation to Rs. 3,000 per acre in this case. We are also satisfied that the High Court has not departed from any well recognised principles in determination the compensation.

10. In the result the appeals fail and are dismissed with one set of costs.

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