

The State of Madras

Vs

K. N. Shanmugha Mudaliar and Others

Civil Appeal No. 1425 of 1968

(H.R. Khanna, P.K. Goswami JJ)

04.03.1976

JUDGMENT

KHANNA, J. -

1. This appeal on certificate is by the State of Madras, now Tamil Nadu, against the judgment of Madras High Court affirming on appeal the award of learned Subordinate Judge, Salem in respect of the amount of compensation payable to the respondents for acquisition of land under the Land Acquisition Act (Act 1 of 1894) (hereinafter referred to as the Act). The High Court, however, directed that the interest on the amount awarded shall run from November 19, 1951, the date of the award by the Land Acquisition Officer and not from December 1, 1949 as ordered by the Subordinate Judge.

2. On July 12, 1949 notification under Section 4 of the Act was issued for the acquisition of 19 acres 45 cents of dry land situated in Alagapuram Mitta for the Salem Fair Lands Cooperative Society Ltd. On December 19, 1950 Alagapuram Mitta was notified under the Madras Estates Abolition Act (Act 26 of 1948) (hereinafter referred to as the Abolition Act). A writ petition was filed in the High Court to challenge that notification. Further proceedings in pursuance of the notification were stayed by the High Court by order dated January 1, 1951. The society for which acquisition was being made deposited in the meantime the probable cost of the land on September 13, 1950. On November 19, 1951 the Land Acquisition Officer announced his award.

3. The respondents, it may be stated, were the melavaramdars (landholders) of the land in question. Kudiwaramdars (cultivators) were also, besides the respondents, parties to the proceedings before the Land Acquisition Officer. The Land Acquisition Officer by his award dated November 19, 1951 awarded compensation to the cultivators at the rate of Rs. 1,500 per acre for part of the land near the road and at the rate of Rs. 1,300 per acre for the rest of the land. Rs. 520, 11 annas, 1 pie the capitalised value of the net rental income was held to be the amount payable to the respondents. The Kudiwaramdars were content with the compensation awarded to them, but the respondents who were, as already mentioned above, melavaramdars asked for a reference to court under Section 18 of the Act for claiming enhanced compensation. According to the respondents, they were entitled to one-third of the value of the totality of the interest in the land. According further to the respondents, compensation for the total land should be awarded at the rate of Rs. 3,000 per acre. Learned Subordinate Judge held that the respondents were entitled to 50 per cent of the compensation awarded in respect of the kudiwaram interest in the land. The Subordinate Judge in this context relied upon an earlier decision of the Madras High Court wherein it had been held that the rights of melavaramdars were not confined only to rent from land and that they had other recognised rights and were entitled to compensation for those rights. The respondents were thus held entitled to

compensation for their melavaramdars; interest at the rate of Rs. 750 per acre in respect of land near the road and Rs. 650 per acre in respect of the remaining land. Interest was awarded to the respondents on the compensation amount from December 1, 1949 because, in the opinion of the Subordinate Judge, possession of the land had been taken from that date.

4. On appeal the High Court affirmed the decision of the Subordinate Judge regarding the rate of compensation. The contention advanced on behalf of the appellant that as the land had vested in the Government under the Abolition Act, the respondents were not entitled to compensation under the Land Acquisition Act, was rejected. It was observed that in the land acquisition proceedings the Government was estopped from denying the absence of any interest in the claimants whom the Government had made parties to the proceedings. Regarding the date from which interest on the amount of compensation should accrue, the High Court found that there was no material on the record to show that possession of the land had been taken prior to the date of the award by the Land Acquisition Officer. Interest was accordingly directed to run from the date of the award.

5. In appeal before us Mr. Rangam on behalf of the appellant State has urged that as the land in question has vested under the Abolition Act in the State, the respondents are not entitled to compensation under the Land Acquisition Act. We find it difficult to accede to this submission, for we are of the opinion that in case the State wanted to take over the land under the Abolition Act it should not have proceeded to acquire the interest of the respondents in the land in dispute under the Land Acquisition Act. There were two alternative courses open to the State, either to proceed under the Land Acquisition Act or to take over the land under the Abolition Act. Although the estate was notified under the Abolition Act, the proceedings under that Act were stayed and the matter proceeded under the Land Acquisition Act. As the proceedings which were continued were under the Land Acquisition Act the compensation payable had also to be paid in accordance with the provisions of that Act. The reference which was made by the Land Acquisition Officer to the Subordinate Judge under Section 18 of the Land Acquisition Act was with respect to the quantum of compensation payable to the respondents because the respondents had felt dissatisfied with the amount awarded to them as compensation by the said officer. The underlying assumption of these proceedings was that the respondents had an interest in the land. If it was the case of the appellant that the respondents had been divested of their interest in the land and the same had vested in the appellant State, the appellant should have taken appropriate steps to make such a claim in accordance with law. No such claim seems to have been made. The High Court expressly left open the question of the claim of the State Government to the amount of compensation deposited on the score that melavaramdar respondents were not entitled to it by reason of having lost all their interest in the land at the relevant point of time. We agree with the High Court that it was not open to the appellant State in the particular reference made at the instance of the respondents to the Subordinate Judge to set up a claim adverse to the interest of the respondents. There is also we find nothing in the award of the learned Subordinate Judge to show that any question was raised before him that the amount of compensation was not payable to the respondents in accordance with the provisions of the Land Acquisition Act. This question appears to have been agitated for the first time only in the appeal before the High Court. The High Court rejected the contention in this behalf. We find no cogent ground to take a different view.

6. As regards the quantum of compensation, the High Court has referred to the previous decisions which show that the formula generally adopted is to pay one-third of the total compensation to melavaramdars and two-thirds of the compensation to Kudiwaramdars. In accordance with that formula, the respondents would be entitled to one-half of the compensation payable to kudiwaramdars. Both the Subordinate Judge and the High Court awarded compensation in

accordance with this formula. No cogent ground has been shown to us as to why we should interfere with the concurrent finding in this respect. We also find no reason to dis-agree with the High Court regarding the date from which interest should run on the amount of compensation.

7. The appeal fails and is dismissed with costs.

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