

State of Tamil Nadu

Vs

Padmavathiammal

Civil Appeals No. 136 of 1981

(D.A. Desai, A.D. Koshal, A.P. Sen JJ)

12.01.1981

JUDGMENT

DESAI, J. -

1. The question before the court was what compensation was payable to the land-owner whose surplus land was taken over under the relevant ceiling law.
2. The Tamil Nadu Lands Reforms (Fixation of Ceiling on Land) Act, 1961 provides for determining the compensation payable to the original owner of the land for taking over his land declared surplus. Section 50 in Chapter VI having fasciculus 'compensation', provides that every person whose right, title or interest in any land is acquired by the government under Chapter II shall be paid compensation according to the rate specified mined according to the formula prescribed in Schedule III.
3. Broadly stated, the authority charged with a duty to determine compensation has to take the first step to ascertain a sum equivalent to the net annual income from the land. This annual income determined less land revenue shall be treated as an amount of fair rent.
4. Paragraph 4 provides for a multiple of the fair rent to be paid as compensation in respect of different classes of land. We need not elaborate this point.
5. Having gone through the judgment of the High Court, this formula is conspicuous by silence. It is impossible to gather from the judgment of the High Court whether the High Court determined compensation according to the statutorily prescribed. On the contrary, the High Court has proceeded to determine the market value of the land as if it was a case under Land Acquisition Act. This is impermissible and contrary to statute.
6. In the judgment there is a reference to some earlier judgment of our learned colleague Shri Varadarajan. That judgment is not before us but we were told that compensation was determined on the basis of market value in that judgment. Clearly this is impermissible because it over looked the entire scheme statutorily prescribed for determining compensation. Accordingly, we allow this appeal and set aside the Judgment of the High Court and remand the matter to the High Court with a direction that the compensation be determined according to the statutory formula. In case the High Court considers proper to remand the matter to the lower authority, it will be open to it to do so. Parties will be at liberty to adduce evidence bearing on the question of compensation.
7. In the circumstances there will be no order as to costs.

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