

SUPREME COURT OF INDIA

Nagarathina Reddy

Vs.

Special Tehsildar (La) Tamil Nadu

C.A.Nos.3239-3297 of 1999

(Shivaraj V. Patil and B. N. Srikrishna JJ.)

21.09.2004

JUDGMENT

S.V.Patil, J.

1. The lands belonging to the appellants were acquired for a public purpose, namely, Krishna Water Supply Project, pursuant to the preliminary notifications dated 1st December, 1989 and 2nd March, 1990 issued under Section 4(1) of the *Land Acquisition Act, 1894* [for short, "the Act"]. The Land Acquisition Officer determined the market value of the lands acquired at the rate of Rupees two hundred per cent. The appellants, not satisfied with the amount of compensation fixed by the Land Acquisition Officer, sought reference under Section 18 of the Act. The Reference Court determined the compensation at the rate of Rs. 4, 500/- per cent. Aggrieved by the order made by the Reference Court, the State filed appeals before the High Court challenging the enhancement of compensation made by the Reference Court. The High Court, by the impugned judgment, reduced the compensation from Rs. 4, 500/- per cent to Rs. 2, 000/- percent. Hence, these appeals are by the claimants, aggrieved by the reduction of amount of compensation as well as refusal to give statutory benefits, in view of the amended provisions of the Act.

2. The learned senior counsel for the appellants contended that the High Court was not right in deducting twenty per cent of the total land on the ground that they are required for providing roads, etc. and again deducting 33 1/3rd percent towards developmental charges. The learned counsel also complained that, as against the market value determined by the Reference Court at the rate of Rs. 4, 500/- per cent, the High Court drastically reduced it to Rs. 2, 000/- per cent. According to him, the market value so determined by the High Court is far less.

3. Per contra, the learned senior counsel for the respondents made submissions supporting the impugned judgment.

4. When we specifically asked the learned counsel for the respondents whether the High Court could deduct twenty percent of the total land, as required for formation of roads, etc.

and again deduct 33 1/3rd percent towards developmental charges, the learned senior counsel fairly submitted that the deduction could be made only under one heading, namely, towards developmental charges.

5. We have considered the submissions made by the learned counsel for the parties, having regard to the material placed on record. The Reference Court, on the basis of the evidence placed before it, both documentary and oral, determined the market value of the lands acquired at the rate of Rs. 4, 500/- per cent and awarded the compensation on that basis without deducting any amount whatsoever towards developmental charges, even after taking the potential value of the land for the purpose of converting them into building sites. The learned senior counsel for the appellants was not in a position to say that the Reference Court was justified in awarding Rs. 4, 500/- per cent as compensation without deducting any amount towards developmental charges. The High Court found fault with the order of the Reference Court in not making any deduction towards developmental charges and straightaway awarding the compensation at the rate of Rs. 4, 500/- per cent, but, in our view, the High Court was not right in deducting twenty percent of the total land acquired on the ground that it was required for the purpose of formation of road, etc. and again deducting 33 1/3rd percent towards developmental charges. The lands acquired were agricultural lands. Normally one-third deduction could be made towards developmental charges. # Having regard to the fact that lands are near Chennai city and near the State highway, having some advantage, there ought to be deduction of thirty percent towards developmental charges, particularly in view of the location of the lands and other developments around. As already stated above, since the High Court could not have deducted twenty percent of the total land for the formation of roads, in our view, deduction of thirty percent towards developmental charges overall would suffice. # The Reference Court committed an error in deciding the market value at the rate of Rs. 4, 500/- per cent based on Annexures C-1 to C-8 and C-1 to C-16, the sale deeds, which pertained to small bits of land in Villages Thaneerkulam and Kakkalur respectively and the same market value could not have been fixed for the large area of lands acquired. In our view, twenty percent should have been deducted in this regard in fixing the market value. If twenty percent is so deducted, the market value of the lands acquired comes to Rs. 3, 600/- per cent and out of that, thirty percent has to be deducted towards developmental charges, which comes to Rs. 1, 080/-. If this amount is deducted out of Rs. 3, 600/-, it comes to Rs. 2, 520/-, which we round it off to Rs. 2, 500/- per cent. Accordingly, we fix the market value of the lands acquired at Rs. 2, 500/- per cent.

6. We also make it clear that the appellants shall be entitled to statutory benefits as per the amended provisions of the Act on the amount of compensation, as determined above.

7. The civil appeals are, accordingly, disposed of and the impugned judgement stands modified to this extent.

No costs.