

A

K. PERIASANI

v.

SUB-TEHSILDAR (LAND ACQUISITION)

MAY 4, 1994

B

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

C

Land Acquisition Act, 1894 : SS. 4, 6, 12, 18—Acquisition of land—Compensation—Determination of—Held, appellant was entitled to parity of market value for acquired land when High Court enhanced the rate in respect of other lands situated in same area and acquired under the same Notification.

D

Certain lands of the appellant-landowner were acquired under the Land Acquisition Act, 1894, for a Housing Scheme. Market value of the land was determined at Rs. 92 per cent. On reference, the market value was enhanced to Rs. 800 per cent as against the claim at the rate of Rs. 1500 per cent. The High Court confirmed the award of the reference court and dismissed the appeal filed by the state and the cross-objection of the land owner.

E

In appeal to this Court, it was contended on behalf of the appellant-land owner that the High Court erred in not noticing the fact that in respect of other lands situated in the same area and acquired under the same notification under which the land in question was acquired, it had enhanced the rate to Rs. 1000 per cent and Rs. 1050 per cent. It was claimed that there was material on record to show that the land in question was possessed of better advantageous features.

F

Allowing the appeals, this Court

G

HELD : 1. The High Court was not right in holding that there was no evidence as to parity of the advantageous position of the lands to award the same compensation. The treatment of lands by the Land Acquisition Officer himself by awarding them a rate of Rs. 92 per cent in the instant appeals while he had awarded the rate of Rs. 70 per cent of lands in other appeals furnishes the intrinsic evidence that the lands in question are situated in a better advantageous position than the lands concerned in the other appeals. The appellant is entitled to parity of market value for the acquired lands. [904-B-C]

H

2. The appellant is entitled to 30 per cent solatium and 9 per cent interest on the enhanced compensation for the first year from the date of taking possession and thereafter 15 per cent interest till date of payment or deposit, whichever is earlier. [904-C-D]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 851 & 852 of 1993.

From the Judgment and Order dated 25.10.89 of the Madras High Court in A. Nos. 760 and 763 of 1987.

V. Balachandran for the Appellants.

A. Mariarputham and Mrs. Aruna Mathur for the Respondent.

The following Order of the Court was delivered :

By a Notification under Section 4(1) of the Land Acquisition Act, 1894 published in the Tamil Nadu Gazette on March 7, 1973 a large extent of lands including Survey No. 11/4 and 49/7 in Thathanai Village, near Madurai were proposed to be acquired for a Housing Scheme. The Land Acquisition Officer determined the market value of that land @ Rs. 92 per cent. On reference under section 18, the Civil Court, by its award, enhanced the Market value of that land to Rs. 800 per cent as against the claim of the appellant at the rate of Rs. 1500 per cent. The High Court, by its judgment and decree dated October 25, 1989 confirmed the award of the Civil Court and dismissed the appeal in Civil Appeal No. 763 of 1987 of the State. It also dismissed the cross-objections of the appellant. Hence, this claimant's appeal by special leave.

It is not disputed that the market value of lands acquired pursuant to the said Notification has been determined by different benches of the High Court such as appeals Nos. 538/87 and 1226/86 titled *Special Tehsildar, Land Acquisition v. Lakshmi Ammal and another*. The lands for which the land Acquisition Officer had awarded at the rate of Rs. 70 per cent and the Civil Court on reference, had enhanced such rate to Rs. 850 per cent, the High Court on appeal had enhanced the rate in two cases to Rs. 1000 per cent and in two other cases to Rs. 1050 per cent. Since the lands under consideration in the present appeals are situated in the same area and were acquired under the same acquisition and the Land Acquisition Officer himself had treated that lands to be in a better advantageous

- A position than the lands covered in the other appeals, it would be clear that the lands in these appeals are possessed of better advantageous features than the lands covered by the judgment in other appeals fixing their value at the rate of Rs. 92 per cent. This fact was not noticed by the learned Judge, while disposing of the appeals, as it is observed that there is no evidence as to parity of the advantageous position of the lands to award the same compensation. The observation appears to be incorrect. The treatment of the lands by the Land Acquisition Officer himself by awarding to them a rate of 92 per cent in these appeals while he had awarded the rate of Rs. 70 per cent of lands in the other appeals furnishes the intrinsic evidence that the lands in question are situated in a better advantageous position than the lands concerned in the other appeals. When such is the situation the appellant also is entitled to parity of market value for the acquired land.

- D The appeals are accordingly allowed. The appellant is entitled to 30 per cent solatium and 9 per cent interest on the enhanced compensation for the first year the date of taking possession and thereafter 15 per cent interest till date of payment of deposit, whichever is earlier. No costs.

R.P.

Appeal allowed.