

State Of Madras vs A. M. Nanjan And Anr on 9 February, 1976

Equivalent citations: 1976 AIR 651, 1976 SCR (3) 356, AIR 1976 SUPREME COURT 651, 1976 3 SCR 356, 1976 2 SCWR 409, 1976 (1) SCC 973, 1976 UJ (SC) 253

Author: P.K. Goswami

Bench: P.K. Goswami, Syed Murtaza Fazalali

PETITIONER:

STATE OF MADRAS

Vs.

RESPONDENT:

A. M. NANJAN AND ANR.

DATE OF JUDGMENT 09/02/1976

BENCH:

GOSWAMI, P.K.

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GOSWAMI, P.K.

FAZALALI, SYED MURTAZA

CITATION:

1976 AIR 651 1976 SCR (3) 356

1976 SCC (1) 973

ACT:

Land Acquisition Act, 1894 -Section 23-Compensation-Quantum of-Increasing the amount of compensation appreciating the evidence oral and documentary, the admitted rise of prices of land, the advantages and facilities of the land with reference to its location etc. is within the well recognised principles of fixing the compensation and is not based on speculation or conjecture-Awards for other lands are in the nature of admission of the Value of the land and admissible in evidence.

HEADNOTE:

In respect of an area of 18.34 acres in Mulligoor village, Nilgiris District belonging to the respondents and acquired by the appellant for the purpose of hydro-electric scheme at Kundah in May 1957 the land acquisition officer awarded a compensation of Rs. 500 /- per acre as against its

purchase price of Rs. 230/- per acre in February 1951; but on a reference the Subordinate Judge raised it to Rs. 1800/- per acre. On appeals by the Appellant/State and the Respondent/Claimant, while dismissing the State appeal and partly allowing the respondent's appeal, the High Court of Madras by its common judgment raised the rate of compensation to Rs. 3000/- per acre.

In the two appeals by certificate, the appellant State contended (i) that raising the rate of compensation was without any basis and merely on speculation, (ii) that the rates at which the adjoining lands were sold for house sites cannot be safe-guides; (iii) that allowing flat rate of Rs. 3000/- per acre with out due regard to the quality or classification of the land is bad in principles of fixing compensation.

Negating the contentions of the State and dismissing the appeals, the Court

HELD: (1) The awards given by the Land Acquisition 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 can be taken as safe guides. and are admissible in evidence for the determination of compensation. [358EF]

(2) In the instant case, from an examination of the evidence and the documents and having regard to the location, advantages and facilities of the land and the admitted rise of price of the land between the years 1951 and 1957, it cannot be said that the High Court either departed from any well recognised principle in determining or committed an error in raising the amount of compensation. [359A-B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1212 and 1213 of 1968.

From the Judgment and Decree dated 2-5-1960 of the Madras High Court in Appeals Nos. 20 and 61 of 1960.

Lal Narain Sinha, Solicitor General, A. V. Rangam and Miss A. Subhashini for the Appellant.

M. Natesan and Mrs. S. Gopalakrishnan for Respondents.

The Judgment of the Court was delivered by. GOSWAMI, J.-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. B The land in question was acquired for the purpose of a hydro electric scheme at Kundah. A Notification under section 4(1) of the 5th 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. 4218/4/- from the Nilgiris Wattle Plantations Limited. The rate at which this 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. 1800/- 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 claimants' appeal by raising the rate of compensation to Rs. 3000/- per acre. That is how the two appeals are filed by the State with certificate from the High Court.

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 necessarily 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....."

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".

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. 3000/- and according to the second one (B-11) the rate awarded was Rs. 5263/- per acre. He also submits that the Sale deed (Ext. A-7) of September 27, 1955, which appertains to land in the identical village Mulligoor and which shows the consideration of Rs. 5000/- 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.

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 transactions 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. 6000/-. 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. 3000/- 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. 3000/- per acre in the said award taking into consideration several sale deeds. He even fixed Rs. 5000/- per acre for..30 acres of land having regard to the bona fide sale transaction of a portion of the land covered by the same survey number.

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 facts 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.

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".

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. 3000/- per acre in this case. We are also satisfied that the High Court has not departed from any well recognised principles in determining the compensation.

In the result the appeals fail and are dismissed with one set of costs. C S. R. Appeals dismissed.