

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2705 OF 2010

[Arising out of Special Leave Petition (C) No.29135/2008]

G. Prema

... Appellant

Vs.

The Special Tahsildar, Tirupattur

... Respondent

WITH

CIVIL APPEAL NO. 2707 OF 2010

[Arising out of Special Leave Petition (C) No.30599/2008]

K. Alliammal

.... Appellant

Vs.

The Special Tahsildar, Tirupattur

...Respondent

JUDGMENT**R. V. RAVEENDRAN, J.**

Leave granted.

Survey Nos.59/3 and 59/1 of Jolarpettai village, Tirupattur Taluk, measuring 1.43 acres and 5.07 acres belonging to the respective appellant in the two appeals (along with another 0.27 acre) were acquired for the purpose of providing house sites for weaker sections, in pursuance of

preliminary notification dated 7.6.1989. The Land Acquisition Officer determined the compensation for the said agricultural lands at Rs.30,000/- per acre by his award dated 22.4.1992.

2. The Reference Court by its judgment and award dated 11.9.1995 increased the compensation to Rs.4,17,600/- per acre. It relied on a sale deed Ex. A1 dated 23.12.1988 relating to sale of a plot of land measuring 2520 sq. ft. in nearby Survey No.65/3 for a sale consideration of Rs.30,870/- which works out to Rs.12.25 per sq.ft. or Rs.533,610/- per acre. The Reference Court however took the market value under Ex. A1 as Rs.12 sq.ft. or Rs.5220/- per cent and after deducting 1/4th (Rs.1044/-) thereof towards the cost of development, arrived at the market value of the acquired land at Rs.4,176/- per cent or Rs.4,17,600/- per acre.

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3. Feeling aggrieved, the State filed appeals before the High Court. The High Court was of the view that it would be more appropriate to rely upon Ex. A2 dated 11.8.1986 which related to a sale of a land which was also the subject matter of the same acquisition. Under Ex.A2, one of the appellants (Prema) had sold land measuring 15 cents in Sy. No.59/3 for Rs.18,750/- which worked out to Rs.1,250 per cent or Rs.125,000/- per acre. As the sale was of

the year 1986 and the preliminary notification was of the year 1989, the High Court provided an increase of 10% per year, that is Rs.375/- for three years, and arrived at the market value as Rs.1,625/- per cent or Rs.162,500/- per acre. As a consequence, the High Court allowed the appeals in part and reduced the compensation from Rs.4,17,600/- to Rs.1,62,500/- per acre. The said judgment is under challenge in this case.

4. The appellants contended that the High Court committed an error in relying on Ex. A2 as it was nearly 3 years prior to the acquisition and there was a steep increase in the value of land during that period. They contended that Ex. A1 relating to Survey No.65/3 which was a nearby land, was more appropriate for determining compensation as it was a sale on 23.12.1988, much nearer to the date of acquisition. They contended that the compensation awarded by the Reference Court ought not to have been interfered by the High Court. Alternatively, they contended that even if Ex. A2 had to be relied on, the price thereunder should have been increased cumulatively at least by 30% per annum. On the other hand, learned counsel for the respondent - state submitted that when a sale deed executed by one of the claimants relating to an acquired land was available, the High Court was justified in taking note of that transaction (Ex. A2 dated 11.8.1986) in

preference to Ex. A1 dated 23.12.1988 which related to a land farther away. It was also submitted that while Ex. A2 relied on by the High Court relates to 15 cents of land whereas Ex. A1 relied on by the Reference Court was in regard to a small plot of developed land measuring hardly 2 cents that is 2520 sq.ft. and therefore Ex. A2 dated 11.8.1986 was rightly preferred instead of Ex. A1 dated 23.12.1988. The respondent also contended that the increase in value per year was rightly taken as 10% and that being the standard increase, should not be interfered with.

5. We are of the view that both the sale deeds are relevant. Ex. A1 is nearer in time and the plot though small was also near to the acquired lands. Ex. A2 relates to a part of the acquired lands nearly three years prior to the preliminary notification. We therefore propose to rely upon both the sale transactions by making appropriate adjustments.

6. Ex. A1 dated 23.12.1988 as noticed above, is in regard to a small developed land measuring 2520 sq.ft. which works out to Rs.12.25 per sq.ft. That the acquired lands are situated on the outskirts of Jolarpettai surrounded by developed areas (Jolarpettai is one of the main Railway Junctions under Southern Railway). The land was acquired for making housing sites for weaker sections which also shows their potential for development. However,

as what has been acquired is a larger tract of land and Ex. A1 related to a very small piece of land, we are of the view that a deduction of 60% towards development cost (that is deduction towards land to be set apart for roads, drains, parks etc., and the cost of development), would be appropriate. On deducting the 60% towards the development cost from Rs.533,610/- per acre (which is the value reflected by Ex. A1 dated 23.12.1988), the market value for a larger tract of land would be Rs.213,440/- per acre. If we take Ex. A2 dated 11.8.1986 as the basis, as there is a gap of three years between the date of Ex. A2 and the date of preliminary notification, we have to work out the market price in 1989, by providing appropriate yearly increase. This Court in *Sardar Joginder Singh v. State of U.P.* [2008 (17) SCC 133] has held that in urban areas or lands with potential for development, a cumulative increase of 10% to 15% would be appropriate. We are of the view that having regard to the situation and potential, providing a cumulative increase of 12% for 3 years over the base rate of Rs.1250/- disclosed by Ex.A2 dated 11.8.1986 would be appropriate. If so done, the market price would work out to be Rs.1,756/- per cent or Rs.175,600/- per acre. By averaging the two prices, we get a market value of Rs.194,520/- (rounded off to Rs.195,000/-) per acre. We accordingly increase the value of land from Rs.162,500 to Rs.195,000/- per acre.

7. We find that while the High Court awarded an additional amount at 12% per annum from the date of preliminary notification till the date of passing of award or delivery of possession whichever was earlier and solatium at 30% under section 23(2), it awarded interest only on the compensation plus additional amount. In regard to interest on the solatium amount, the High Court stated that as the matter was pending before the Supreme Court, depending upon the outcome, the claimants will be entitled to claim the amount before the Reference Court. This Court has subsequently held that interest is payable on the solatium also.

8. In view of the above we allow these appeals in part as follows :

- (a) The compensation for the land is increased from Rs.162,500 per acre to Rs.195,000 per acre.
- (b) The compensation awarded in regard to well and the structure is not disturbed.
- (c) The appellants will be entitled to additional amount @ 12% per annum on the market value from the date of notification under section 4(1) of the LA Act till the date of award of the Collector,

and solatium at 30% of the market value and interest on the aggregate including solatium @ 9% per annum for one year from the date of taking possession and 15% per annum thereafter till the deposit.

- (d) The respondent is permitted to draw back any amount deposited in excess of what is due as aforesaid. If the appellants have drawn any amount in excess of what is due to them, the respondent shall be entitled to recover the same.
- (e) Parties to bear their respective costs.

New Delhi;
March 23, 2010.

.....J.
(R V Raveendran)

.....J.
(K S Radhakrishnan)

JUDGMENT