PETITIONER:
K. PERIASAMI

Vs.

RESPONDENT:
SUB-TEHSILDAR (LAND ACQUISITION)

DATE OF JUDGMENT04/05/1994

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
VENKATACHALA N. (J)

CITATION:
1994 SCC (4) 180 1994 SCALE (2)996

ACT:

HEADNOTE:

JUDGMENT:
ORDER

1. By a notification under Section 4(1) of the Land Acquisition Act, 1894 published in the Tamil Nadu Gazette on 7-3-1973 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 25-10-1989 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.

2. It is not disputed that the market value of lands acquired pursuant to 'he said notification has been determined by different Benches of the High Court such as Appeal Nos. 538 of 1987 and 1226 of 1986 titled Special Tehsildar, Land Acquisition v. Lakshmi Ammall. The lands for which the and 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 ,he same acquisition and the Land Acquisition Officer himself had treated the lands to be in a better advantageous 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 by 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 Rs 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 lands.

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

1 Appeal Nos. 538 of 1987 and 1226 of 1986

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