



A.S.Nos.54, 57,58,59,61 & 62 of 2022
and
Cross Obj.Nos.62 to 67 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.04.2023

Pronounced on : 25.05.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN,
ACTING CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**A.S.Nos.54,57,58,59,61 and 62 of 2022
and
Cross Objection Nos.62 to 67 of 2022
and**

**C.M.P.Nos.2181,2240, 2183, 2233, 2228, 22614, 2259, 2246,
2272, 2270, 2241,19213,19208,19201,19206 of 2022**

A.S.No.54 of 2022

The Special Tahsildar,
Land Acquisition,
Chennai City Water Ways Scheme,
Ambathur, Chennai-600 053. ... Appellant

Versus

1.S.Sivakumar

2.The Executive Engineer,
Kosasthalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... Respondents

PRAYER in A.S.No.54 of 2022 : Appeal is filed under Section 54 of The

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and
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Land Acquisition Act, 1894, against the Judgment and Degree of the
Sub-ordinate Court, Kancheepuram in L.A.O.P.No.40 of 2009 dated
14.12.2010.

Cross Obj.No.62 of 2022

1.Jothi Baskaran
2.B.Hari Prasad
3.Sharmila Baskaran ... Cross Objectors

Versus

1. The Special Tahsildar,
Land Acquisition,
Chennai City Water Ways Scheme,
Ambathur, Chennai-600 053.

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... Respondents

PRAYER in Cross Obj.No.62 of 2022 : Cross Objection is filed under
Order 41 Rule 22 of CPC to set aside the findings rendered in the
judgment in L.A.O.P.No.32 of 2009 dated 14.12.2010 on the file of the
Subordinate Court, Kancheepuram, insofar as the Cross Objector and to
enhance and fix the value of the land at Rs.50,000/- per cent with
solatium, interest on solatium at 15% and all other attendant benefits
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from the date of Section 4(1) Notification and allow the above Cross

Objection.

For Appellant : Mr.R.Shanmugasundaram,
Advocate General,
Assisted by Mr.T.Chandrasekaran,
Spl.G.P., in all appeals.

For Respondents
in A.S.Nos.54
and 58 of 2022 : Mr.K.V.Babu
(Appellants
Cross Objections)

For Respondents
in A.S.Nos.57,59
61 and 62 of 2022 : Mr.J.Ram
(Appellants in
Cross Objections)

COMMON JUDGMENT

(Judgment was delivered by **R.KALAIMATHI, J.,**)

A batch of Six Appeals have been preferred by the Special
Tahsildar (Land Acquisition), Chennai City Water Ways Scheme,
Ambathur, Chennai-600 053, challenging the common award passed by
the Reference Court in L.A.O.P.Nos.32,33,36,37,38 and 40 of 2009,
dated 14.12.2010.



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2. The claimants concerned, have also preferred cross-objection Nos.62 to 67 of 2022 against the common award passed as mentioned supra.

3. As the batch of six appeals and the connected cross objections arisen out of a common judgment and decree dated 14.12.2010 passed by the reference Court, all the six appeals together with cross-objections are heard together and disposed of, by this common judgment.

4. Originally, The Executive Engineer, PWD, Kosasthalai Aaru basin, Thiruvallur, who is the requisitioning body, based on the request of the Executive Engineer, PWD, the Government has acquired the lands comprised in various survey numbers measuring an extent of 8.52.0 Hectares of wet lands in No.91, Kundrathur Village, Sriperumbudur Taluk, Kanchipuram District for the purpose of improvement of Chembarambakkam Surplus Water Course in Kanchipuram District and for widening the channel under improvement of Chennai City Water Way Scheme. Thereafter, draft notification under Section 4(1) of the Land Acquisition Act was approved and the same was published in the Tamil Nadu Government Gazette Part-II Section(2), Extra-Ordinary Issue No.4
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dated 05.01.2006 and the same was caused to be published in Tamil

News Papers on 11.01.2006 and the said details were also published in the locality on 13.01.2006. Thereafter, draft declaration under Section 6 of the Land Acquisition Act was approved in G.O.Ms.No.26 Public Works(T2) Dept., dated 27.01.2006 and the same was published in the Tamil Nadu Government Gazette Part-II, Section (2)-Extra-Ordinary Issue No.28 dated 30.01.2006. The said notification was published in Tamil Dailies on 04.02.2006 and also the gist of declaratrion was published in the locality on 06.02.2006.

5. The Land Acquisition Officer has taken out 520 sales transaction from 13.01.2003 to 12.01.2006 out of which sales transactions in respect of 520 instances were discarded as they are pertaining to Government poramboke lands, meagre extent of plot as well as village sites, gift deed land which has no access etc. Among the 520 sales transactions, Sl.No.406 alone was taken as data land as the land is similar in all respects with that of acquisition land. Similarly, the acquired land in the said Survey No.413 measuring an extent of 2.77 acre wet land was sold at Rs.3,29,630/- as per the Doc.No.2673 of 2005 dated

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30.03.2005 registered at the Sub Register Officer, Kundrathur. The land value works out to Rs.1,190/- per cent / Rs.2,939.30 per Are. Therefore, based on the data land, namely Doc.No.2673 of 2005 dated 30.03.2005, land value was fixed at Rs.1,190/- per cent along with solatium of 30% on the market value of the land, as per Section 23(1)(A) of the Land Acquisition Act. 12% additional market value per annum was worked out from the date of issuance of notification under Section 4(1) of the Land Acquisition Act till the date of Award with interest at 9% p.a., for the 1st year from the date of taking possession and 15% for subsequent years till the date of deposit.

6. At the Award Enquiry, the claimants objected to the above said fixation of compensation and rather raised a demand for payment of compensation ranging from Rs.1,00,000/- to Rs.2,00,000/- per cent without any supportive documents. Resultantly, the Land Acquisition Officer has referred all the matters under Section 18 of the Act, for determination of market value to the Reference Court, namely, Sub-Court, Kanchipuram and the said References were taken on file as L.A.O.P.Nos.32,33,36,37,38 and 40 of 2009.

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7. At trial, to substantiate the case of the claimants, one of the claimant in L.A.O.P.No.37 of 2009, Mr.Kamalanathan examined himself and for other claimants as C.W.1. Exs.C1 to C4 have been marked. Exs.C1 to C3 are the sale exemplars. Ex.C4 is the village map of Kundrathur village. Whereas on the side of the respondents Tmt.K.Lalitha, Special Tahsildar and Thiru.R.Senthilkumar, Executive Engineer were examined as RW1 and RW2 respectively. Survey sketch was marked as Ex.R1.

8. The Reference Court has concluded that as the Doc.No.2673 of 2005 was not produced by the Appellants' side, by considering Exs.C1 to C3 as the highest sale transaction is in Ex.C3, based on the same, market value per cent for the acquired land was enhanced at Rs.28,290/- per cent.

9. Mr.R.Shanmugasundaram, learned Advocate General would strenuously contend that Ex.C3 sale deed dated 12.01.2006 which was relied upon by the Reference Court, is registered just one day before Section 4(1) Notification dated 13.01.2006. It is his arguments that the



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Land Acquisition Officer has rightly taken the data sale deed of wet land

in order to arrive at the market value of the acquired land, since the acquired land and data land are one and the same nature of land. He would also further contend that the compensation is exorbitantly enhanced from Rs.1,190/- per cent to Rs.28,290/- per cent. Stress was also made that the data sale deed pertains to 2.77 acres, was not considered and Ex.C3 which was relied upon by the Reference Court, concerned with the sale of house site measuring an extent of 1709 Sq.ft., and sought for reduction. To strengthen his argument, he referred to the following judgment:

In ***Kolkata Metropolitan Deelopment Authority v. Gobinda Chandra Makal*** reported in ***(2011) 9 SCC 207***, wherein the Apex Court has held that in the absence of any evidence to show that beel plots were drained, filled, levelled and made similar to sali plots, value of beel plots cannot be treated on a par with 'sali' plots. Average value of beel plots under sale exemplar which comes to about Rs.71,350/- per cottah can be the basis for determining value of acquired beel plot No.272, by providing 12% appreciation per year and with reference to sale price as on 25.06.1999, it comes to about Rs.90,000/- per cottah, deducting



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33.33%, therefrom market value of under developed plots in the year 2000 would be Rs.60,000/- per cottah.

10. He would also refer to the judgment of the Hon'ble Supreme Court in ***Kanwer Singh and others v. Union of India*** reported in ***1998(8) SCC 136***, wherein, it was held that in dispute regarding compensation for compulsory acquisition of land in a particular village. The High Court relied upon two instances of another village for deciding the value of the land in question. The decision of the High Court was challenged on the ground that no instances of sale in particular village available in respect of disputed property. The Hon'ble Supreme Court held that the judgment of the High Court was neither perverse nor illegal, since it is based on correct appreciation of evidence on record and proper application of law to the established facts.

11. Per contra, counteracting to the said details, almost similar line of arguments were made by the claimants' counsels Sri.K.V.Babu and Sri.J.Ram. It was contended that the compensation should have been granted on the basis of Exs.C1 to C3 as the lands are situated within the



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limits of C.M.D.A., behind Chennai Airport and the lands have the best locational advantages. The land owners have lost their agricultural lands and the land owners are to be compensated adequately.

12. As mentioned supra, to buttress his arguments, Mr.J.Ram, learned counsel referred to the following judgments:

(i) ***Nelson Fernandes and others v. Special Land Acquisition Officer, South Goa and others*** reported in **(2007) 9 SCC 447**, wherein the Apex Court has held that while awarding compensation, factors to be considered for assessing the market value, potentiality of the land, injury likely to be sustained by the land owners, due to loss of future earning from the land is relevant. The damage already suffered by the owner due to reduction in profit during the period between publication of notice and taking of possession of the land by the Collector. The purpose of acquisition has to be looked into. The availabilities of basic amenities in the acquired land to be taken note of.

(ii) In another judgment in ***Special Tahsildar (LA) Unit-I, Outer Ring Road Project, Phase I, Chennai Metropolitan Development Authority, Egmore, Chennai-8, (Vs). R.Ram Mohan and others*** in



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A.S.Nos.364 to 416 of 2013, it has been held that in order to contend the very fact that 488 data sales out of 597 related to house sites, on which, in order to contend when the best extent of land both dry and wet lands are acquired, the Tribunal or the Land Acquisition Officer can not go by the market value of a very small extent of house site sold under a very stray document.

13. In ***Sundar v. Union of India*** reported in **2002-2-LW-39** in order to contend that whether the State will be liable to pay interest on the amount envisaged under Section 23(2) of Land Acquisition Act, 1894, for that the Hon'ble Supreme Court by a five judge Bench answered the reference that the person entitled to the compensation ordered is also entitled to get the interest on the aggregate amount including solatium.

14. In ***Narendra and others v. State of Uttar Pradesh and others*** reported in **2017 (9) SCC 226**, in order to contend that the Hon'ble Supreme Court irrespective of the claim made by the land owners, the Court is not precluded from awarding higher compensation than the claimed amount.



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15. We have already extracted the fact that the Land Valuer took note of 597 sales transactions that had taken place during the period from December 1998 to December 2001. Out of this 597 sale deeds, a total of 488 sales related to house sites. This shows that the area had already developed into a town area where, the buildings have started coming up. Even the documents filed under Exs.C1 to C4 very clearly show that in many of the lands, buildings had already come up and the area is a developing area.

16. After hearing both sides, the learned counsels were requested to clarify as to whether any connected matter was taken up to the Hon'ble Supreme Court, and the details were sought for. For which, the learned counsel for the cross-objectors would submit that for the same award, neighbour land owners have preferred appeal before this Court in A.S.Nos.19 and 20 of 2012 and the compensation was enhanced to Rs.39,240/- per cent with 30% solatium and 12% interest from the date of 4(1) Notification and 9% interest for one year from the date of possession and 15% interest from 13.01.2006 to till the date of

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realisation. It was further put-forth that aggrieved land owners, based on the judgment of this Court had filed Civil Appeal Nos.9531 and 9532 of 2018 in SLP(C).Nos.18816-18817 of 2018 before Hon'ble Supreme Court and the Hon'ble Supreme Court awarded enhanced compensation at Rs.50,000/- per cent with all other benefits.

17. Heard the arguments of the learned Advocate General and the learned counsels appearing for cross-objectors and perused the materials available on record.

18. Before venturing into serious discussions, it is profitable to refer to the judgments of Hon'ble Supreme Court in cases of awarding of compensation in land acquisition cases.

(i) In ***Udho Dass v. State of Haryana and others*** reported in **(2010) (12) SCC 51**, the Apex Court has held that the potential of the acquired land insofar as it relates to use for which it is reasonably capable of being put in immediate or near future must be given due consideration while fixing the compensation.



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(ii) In ***Sathish and others v. State of Uttar Pradesh and others***

reported in **(2009) 14 SCC 758**, the Hon'ble Supreme Court has held that for determining the market value of the acquired lands, the price paid within a reasonable time in bonafide transactions for purchase of the lands acquired or the adjacent lands possessing similar advantage needs to be considered. It has been further held that the other factors required to be noticed are that the nature and quality of the land whether irrigated or un-irrigated, facilities for irrigation, presence of fruit bearing trees and location of land close to any road or highway, evenness of the land existing of any building or structure and post of other factors have a bearing for fixing the valuation of the lands. In the case of ***Sri Rani M.Vijayalakshamma Rao Bahadur, Ranee of Vuyyur vs. The Collector of Madras*** reported in **(1969) (1) MLJ 45**, wherein the Apex Court opined that when the sale deed pertaining to different transactions are relied on behalf of the Government that represents the highest value should be preferred to the rest unless there are strong circumstances justifying a different course.



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19. In respect of the deduction to be made towards development charges, the Hon'ble Supreme Court in ***Arun Manohar Dange and another vs. Special Land Acquisition Officer, Rajgad, Alibag*** reported in **(2016) 13 SCC 319**, wherein, the Hon'ble Supreme Court has observed that normal practice adopted by the Court is to limit percentage of deduction only by 1/3rd of market value.

20. Therefore, based on the catena of decisions of the Hon'ble Supreme Court of India and this Court, it is vividly clear that in the matters of awarding compensation, the Court has to fix a fair and just compensation for the persons who are deprived of their lands for public purpose. Therefore, while awarding compensation with the available data sale deed / sale exemplars, taking into consideration of nature of the land wet or dry, evenness of the land, whether water course is passing into the land, connectivity of the road, potentiality of the land, facilities for irrigation, presence of trees, existence of any building or structure thereon and so many connected factors are expected to be taken into consideration while fixing the compensation under the Land Acquisition Act.



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21. It is the evidence of claimant Mr.Kamalanathan, CW1 that their lands are wet lands and paddy is cultivated thrice a year and there is a copious water source for their land from Chembarambakkam lake. In future, the lands can be sold as house plots, it would fetch huge amount. In Kundrathur, SIDCO Industrial Estate has been formed. In the said Industrial Estate more than 10,000/- workers are working. Big industries like Tanning Industries are also being run. Pallavaram Bus Stand and Railway Station, Chrompet Bus Stand and Railway Station, Tambaram Bus Stand and Railway Station are situate 4 Kms., from their lands. Their lands are situate within the CMDA limits.

22. The then Special Tahsildar, Chennai Water Ways Scheme, Ambattur, Tmt.K.Lalitha, in her cross-examination, she has acceded to the details of evidence of CW1. From a thorough perusal of the award passed by the Reference Court, the Reference Court has taken into consideration the sale exemplars namely Exs.C1, C2 and C3 and the entire details have been tabulated herein for the purpose of easy reference.

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Sl. No	Exhibits	Deed	Parties	Places	S.N o.	Extent	Market Value	Nature of Land
1	Ex.C1	Sale Deed dated 10.3.2005	Hemalatha Viruthagiri to Mrs.Selvi Ganesan	Kundrathur	Old Sur. No. 301/9 301/9C	1519 sq.ft., (314 cent)	Rs.2,50,000/- (Rs.72,529/- per cent)	House site
2	Ex.C2	Sale Deed dated 16.06.2005	Selvam Varadhan & others sold to Vijayalakshmi Pattabi	Kundrathur	304/2B	2272 sq.ft.	Rs.4,00,000/- (Rs.76,923/- per cent)	House site
3	Ex.C3 (Highest sale Transact ion)	Sale deed dated 12.01.2006	Raghavan Dharmalingam & Sridhar Dharmalingam to Mrs.J.Saraswathi, W/o.Jothi	Kundrathur	307/3B 3, 307/3B 2	1709 sq.ft. (3.9 cent)	Rs.3,31,000/- (Rs.84,871/- per cent)	House Site

23. Reference Court having discussed about the details of all the three sale exemplers namely Exs.C1, C2 and C3 has observed that the sale deed filed by the claimants relate to the approved lay out plots, whereas the lands acquired were wet lands. It has also been observed that the value of the wet land fixed by the Land Acquisition Officer at Rs.1,190/- per cent is far below the value. Among the said sale exemplers, the highest sale transaction is Ex.C3-Rs.84,871/- per cent.



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Based on the said document, land value of the acquired land was fixed at

Rs.28,290/- per cent with attendant benefits.

24. Before going into the correctness of fixation of the value, it is pertinent to note that lands were acquired for similar purpose in various survey numbers measuring an extent of 11.53.5 Hectares of wet lands in No.92, Thirumudivakkam Village, Sriperumbudhur Taluk, Kanchipuram District for the purpose of implementing the scheme improvement of Chembarambakkam Surplus Water Course and widening the channel under improvement of Chennai City Water Ways Scheme. In that connection, four claimants preferred appeal before this Court vide A.S.Nos.19 and 20 of 2012 and A.S.Nos.31 and 32 of 2015. This Court by judgment and decree dated 17.11.2017 has enhanced the compensation from Rs.29,430/- to Rs.39,240/- per cent. Against which, some of the claimants connected with this aquisition have preferred appeal before the Hon'ble Supreme Court in Civil Appeal Nos.9531 and 9532 of 2018.



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25. On a perusal of the judgment passed in A.S.Nos.19 and 20 of 2012, it is discernible that for the same purpose as in our case, an extent of 11.53.5 Hectares of wet land in Thirumudivakkam Village, lands were acquired by the Government and the award was passed on 30.11.2007 in Award No.3 of 2007. From a careful reading of the Order of the Hon'ble Supreme Court, it is discernible that two batch of Civil Appeals namely Civil Appeal Nos.9526 to 9530 of 2018(A.S.Nos.386, 388 to 391 and 795 to 799 of 2012 of this Court) pertaining to Kundrathur Village and Civil Appeal Nos.9531 and 9532 of 2018 (A.S.Nos.19 and 20 of 2012 of this Court) were heard together and disposed of by the Hon'ble Supreme Court as mentioned supra.

26. On perusal of the schedule-A attached with the judgment of the Hon'ble Supreme Court, two batches of appeals namely Civil Appeal Nos.9526 to 9530 of 2018(A.S.Nos.386, 388 to 391 and 795 to 799 of 2012 of this Court) pertaining to Kundrathur Village and Civil Appeal Nos.9531 and 9532 of 2018 (A.S.Nos.19 and 20 of 2012 of this Court) were heard together and disposed of. The judgment of this Court passed in A.S.Nos.386, 388 to 391 and 795 to 799 of 2012, pertaining to

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Kundrathur Village, is downloaded since the said appeal and present appeal are based on the same award. Based on the Award No.1/08, dated 31.01.2008, Six claimants have filed cross-objections and the Government have preferred appeal against them. Whereas, other appeals were preferred on behalf of ten claimants in A.S.Nos.386, 388 to 391 and 795 to 799 of 2012. Batch of appeals were disposed of by this Court by a common judgment dated 20.09.2017.

27. Based on the another Award, which pertains to acquisition of 11.53.5 Hectares of wet land in Thirumudivakkam Village, two appeals were filed before this Court in A.S.Nos.19 and 20 of 2012 and the same was disposed of by the Judgment dated 17.11.2017. **These two common judgments were challenged by the claimants by way of SLP. (C) Nos.25131 - 25135 of 2018 and SLP. (C) Nos.18816 - 18817 of 2018 before the Apex Court and they were disposed of by a common judgment dated 12.09.2018.** One pertains to acquisition of land in Thirumudivakkam Village and other award pertains to Kundrathur Village.



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28. The Hon'ble Supreme Court has passed the following order

which is extracted hereunder:

"Delay condoned.

Leave granted.

Heard the learned counsel for the parties.

The cases pertain to the land acquisition made in January, 2006 in adjacent villages. The High Court has awarded Rs.42,085/- per Cent as compensation for one village and for other village Rs.39,240/- per Cent, making 50% and 1/3rd deduction respectively.

Considering the peculiar facts of this case, evidence on record and considering the exemplars particularly, C-4 and C-6 in both the cases, making appropriate deduction for smallness of plot as well as development, we deem it appropriate to award compensation of Rs.50,000/- per Cent for both villages as they are adjacent. Accordingly, the compensation is enhanced. Let the enhanced compensation be paid along with statutory benefits.



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Appeals are partly allowed, accordingly. Pending

applications, if any, stand disposed of."

29. The Hon'ble Supreme Court has held that the High Court has Awarded Rs.42,085/- per cent as compensation for Thirumudivakkam Village and Awarded Rs.39,024/- per cent as compensation for Kundrathur Village. It has been observed that taking into account of the evidence on record and the sale exemplars C4 and C6 in both cases making appropriate deduction for smallness of plot as well as development, compensation of Rs.50,000/- per cent for both the villages was fixed by the Hon'ble Supreme Court. By this judgment, for the acquisition of lands in Kundrathur Village as regards the award No.1 of 2008 passed on 31.01.2008, the Hon'ble Supreme Court has fixed the compensation at Rs.50,000/- per cent.

30. Therefore, based on the judgment of the Hon'ble Supreme Court in Civil Appeal Nos.9526 to 9530 of 2018, the compensation has to be fixed at Rs.50,000/- per cent and fixed accordingly.



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31. In the result, A.S.Nos.54, 57, 58, 59, 61 and 62 of 2022 are dismissed and the cross-objections filed by the claimants in Cros.Objection Nos.62 to 67 of 2022 are hereby allowed. Consequently, connected miscellaneous petitions are closed. No costs.

[S.V.N., A.C.J.,] [R.K.M.,J.,]

25.05.2023

Index:Yes/No
Speaking/Non-Speaking Order
ssn

To

1. The Sub-ordinate Judge.
Kancheepuram.
- 2.The Special Tahsildar,
Land Acquisition,
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Chennai City Water Ways Scheme,
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3.The Executive Engineer,
Kosasthalaiyur Basin Division W.R.O.,
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Thiruvallur Division,
Thiruvallur Town & District.

S.VAIDYANATHAN, A.C. J.,
and
R.KALAIMATHI, J.,

ssn

Pre-Delivery Judgment in
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