THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.7.2015

CORAM

THE HONBLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

A.S.No.530 of 1998

The Special Tahsildar (L.A)
Neighbourhood Scheme
Salem. ... Appellant(1st Respondent)

Vs.

1. A.Kolandai Pillai (died) ... 1st Respondent(Claimant)

2. The Executive Engineer and
Administrative Officer
Housing Board, Salem. ... 2nd Respondent(2nd Respondent)

3. Thirunavukkarasu
4. Sivalingam
5. Vasugi
6. Sivarani
7. Thirugnanasambantham
8. Vanmeginathan
9. Swarnambigai
10. Vilvambal
11. Thiruchitrambalam
12. Jamuna Rani ... Respondents 3 to 12
(LR's of deceased Claimant)

(R3 to R12 brought on record as LRs of deceased R1 vide order dated 06.11.2014 in CMP No.754 of 2012)

Appeal under Section 54 of the Land Acquisition Act against the order dated 16.4.1996 in LAOP No.6 of 1994 on the file of the Sub Court, Salem.

For Appellant : Mr.P.Gunasekaran,
Additional Government Pleader(AS)

For Respondent-2 : Mr.V.Anandamurthy

For Respondents 3-12 : Mr.P.Jegadeesan
R1 - Died

COMMON JUDGMENT
(Delivered by V.Ramasubramanian,J.)

This appeal is filed by the Special Tahsildar (Land Acquisition) under Section 54 of the Land Acquisition Act, 1894, questioning the enhancement of compensation awarded by the Land Acquisition Tribunal.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader for the appellant, Mr.V.Anandamurthy, learned counsel for the Tamil Nadu Housing Board, which is the requisitioning body and Mr.P.Jegadeesan, learned counsel for the legal heirs of the original land owner.

3. By a notification published on 19.12.1984 under Section 4 (1) of the Land Acquisition Act, the lands of an extent of about 8.18 acres in Kandampatti Village, Salem Taluk, were sought to be acquired for the purpose of promoting the Salem Neighbourhood Scheme, at the instance of the Tamil Nadu Housing Board. By an award bearing No.1/88-89 dated 25.5.1988, the Land Acquisition Officer fixed the compensation at Rs.300/- per cent. On a reference under Section 18, the Land Acquisition Tribunal passed an award on 16.4.1996 in LAOP No.6 of 1994, fixing the compensation as Rs.5/- per sq.ft. In other words, the compensation was enhanced to Rs.2,180/- per cent. Aggrieved by such fixation, the Special Tahsildar has come up with the above appeal.

4. Apart from the above compensation, the Sub Court also awarded an additional amount of Rs.600/- per coconut trees which were yielding, Rs.150/- per coconut trees which were non yielding, Rs.300/- per palmyra trees which were yielding and Rs.75/- per palmyra tree which were non yielding. Therefore, aggrieved by such enhancement of compensation, the Land Acquisition Officer has come up with the above appeal.

5. It is seen from the award of the Land Acquisition Officer that he took note of 70 sale transactions that took place during the period of two years from 06.6.1983 to 28.5.1985. The Land Acquisition Officer classified the lands into two categories and took the transaction at serial No.34 as the basis. Accordingly, he fixed Rs.300/- per cent as the value.

6. Before the Land Acquisition Tribunal, the owner was examined as CW1. The vendor under sale deed dated 29.8.1985 marked as Ex.C13 was examined as CW2. The village map was filed as Ex.C2. The copies of two sale deeds, one dated 14.6.1984 and another dated 29.8.1985 were filed as document Nos.C5 and C13.

7. On the side of the respondents, the Head Surveyor was examined as RW1.

8. Even as per the evidence on the side of the Special Tahsildar, the land was located at a distance of about 4 furlongs from Meyyanur Bypass Roundtana. There was a pucca tar road on the northern side of the land and there was a colony by name Angammal Colony adjoining Kandampatti. There was another residential colony by name Methanagar at a distance of 2 furlongs. On the northern side, there were two colonies by name Palaniappa Nagar and Vasanth Nagar. There was a State Bank colony, after another colony by name Nedunchalai Nagar. RW1 further admitted in his deposition that there was an oil mill nearby the land and that there was also a rice mill and a service station. There was an elementary school at a distance of a half furlong. A theatre and a bus stop were also located nearby. Therefore, the locational advantage of the land was very obvious from the evidence of RW1, examined on the side of the Land Acquisition Officer himself.

9. In view of the fact that there were residential colonies in the nearby area, the Tribunal came to the conclusion that valuing the property as an agricultural irrigated dry land, was not proper. Therefore, he took note of Exx.C5 and C13. Ex.C5 is a sale deed dated 14.6.1984, under which the land of an extent of about 7841 sq.ft. had been sold for Rs.49,000/-. It worked out to Rs.6.25 per sq.ft. Under Ex.C13, whose executant was examined as CW2, a land of an extent of about 1200 sq.ft. had been sold for Rs.36,000/-. As per this sale deed, the land value worked out to Rs.30/- per sq.ft. Consequently, if Ex.C13 had formed the basis, the land value ought to have been fixed at nearly Rs.13,000/- per cent. But, the Tribunal did not go by Ex.C13, to the disadvantage of the respondents. The Tribunal did not even go by the value as reflected in Ex.C5. As per Ex.C5, the value was Rs.6.25 per sq.ft. But, the Tribunal took it only as Rs.5/- per sq.ft. Therefore, we are of the considered view that the Tribunal did not commit any mistake in arriving at the value of the land.

10. Coming to the compensation fixed, the amount of Rs.5/- was arrived at after giving a reduction towards development charges. Therefore, we cannot find fault with the award of the Tribunal insofar as the market value of the land is concerned.

11. Insofar as the fixation of value for trees is concerned, we are of the considered view that the Tribunal did not go by annuities. The Tribunal did not take into account the annual yield and the loss of income for the future period, to come to

any conclusion. Fixing a particular rate for a yielding tree and another rate for non yielding tree, cannot be said to be wrong. If annuities had been calculated on the basis of the income derived from these trees, then the method of calculation differs and the same could be tested. Since that has not been done, we are of the view that there was nothing wrong in the award of the Tribunal. Hence, the appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kpl

To

The Subordinate Judge,
Salem.

+1cc to Mr.P.Jegadeesan, Advocate, S.R.No.35897
+1cc to Mr.V.Anandamurthy, Advocate, S.R.No.35858
+1cc to the Additional Government Pleader(AS), S.R.No.36257

A.S.No.530 of 1998

SV(CO)
CA(02/02/2016)