In the High Court of Judicature at Madras

Dated : 13.8.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN
and
The Honourable Ms.Justice K.B.K.VASUKI

A.S.No.302 of 2015 and M.P.No.2 of 2015

The Special Tahsildar, Land Acquisition, Chennai City Water Ways Scheme, Ambattur, Chennai-53. ...Appellant in AS & R1 in MP.No.2/2015

Vs

1.A.P.Ranga Rao ...Respondent-1 in AS & Petitioner in MP.2/2015

2.The Executive Engineer, Public Works Department, Kosasthalaiyar Basin, Thiruvallur. ...Respondent-2 in both AS & MP.No.2/2015

APPEAL under Section 54 of the Land Acquisition Act against the order dated 31.10.2014 made in L.A.O.P.No.31 of 2006 on the file of the Subordinate Judge, Ponneri.

For Appellant : Mr.P.Gunasekaran, AGP (AS)
For Respondent-1 : Mr.R.Krishnaswamy

Judgment was delivered by V.RAMASUBRAMANIAN,J

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

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant and Mr.R.Krishnaswamy, learned counsel appearing for the first respondent/land owner. The second respondent is the Executive Engineer, Public Works Department. Therefore, there is no requisitioning body, which is other than that of the Government in this case. Hence, the second respondent is represented by the Additional Government Pleader himself.

3. By a Notification dated 16.9.2003 issued under Section 4(1) of the Act, the land of an extent of acres 1.46, spread over two survey numbers namely S.Nos.128/1B1 and 128/1A2B in Vadaperumbakkam Village, Ambattur Taluk, Tiruvallur District, was sought to be acquired for the purpose of improvement to Redhills Surplus Course under improvement of City Water Ways Scheme.

4. After completing the formalities, the enquiry under Section 11 was undertaken by the Land Acquisition Officer. He took note of 185 sale transactions that had taken place in a period of one year immediately preceding the date of the notification. Out of those 185 sale deeds, the Land Acquisition Officer rejected about 115 transactions on the ground that they related to the sale of housing plots. One transaction was rejected on the ground that the sale covered by the document was for industrial purposes. About 6 sale transactions were rejected by the Land Acquisition Officer on the ground that the sale value reflected therein was lesser than the market value. Other sale deeds were rejected either on the ground that they related to poramboke land or that they related to boosted sale considerations.

5. Eventually, the Land Acquisition Officer took note of only one sale transaction at S.No.73, which related to a sale of the land in S.F.No.179/1. The land sold under the said document was of the extent of 41 cents for a total sale consideration of Rs.20,500/-. Therefore, the Land Acquisition Officer fixed the compensation payable as Rs.500/- per cent. Not satisfied with the quantum of compensation, the land owner sought a reference under Section 18. The reference was taken up as L.A.O.P.No.31 of 2006 by the Subordinate Court, Ponneri.

6. Before the Tribunal, the first respondent/claimant, who was aged about 75 years at that time, was examined as C.W.1. He filed a lease cum sale agreement as Ex.C.1 and a notification by the Chennai Metropolitan Development Authority as Ex.C.2. It appears that the Tahsildar was examined as R.W.1, but no documents were marked on his side.

7. The document filed as Ex.C.1 was actually a sale made by the first respondent himself. The sale was registered as doc.No.4140 of 2001 dated 22.11.2001 in the office of the Sub-Registrar, Red Hills. The land covered by the said sale was of the extent of about 98 cents in S.F.No.119/1 and the total sale consideration as reflected in the document was Rs.10 lakhs. Therefore, the rate worked out to Rs.10,205/- per cent.

8. In the above circumstances, the Tribunal took note of the fact that the lands sought to be acquired were located within a radius of 12 Km from Broadway and within 1 Km from the National Highways. There were several important industrial undertakings such

as Madras Refineries Limited, Madras Fertilizers Limited and Ashok Leyland within a distance of 3 Km.

9. The Tribunal also took note of the fact that out of 187 transactions that form part of the data sales, about 105 related to housing plots. This was an indication that the land was developing into a residential colony. Therefore, the Tribunal found fault, rightly so, with the Land Acquisition Officer, for discarding those transactions.

10. Thereafter, the Tribunal took note of the decision of the Supreme Court in Mehrawal Khewaji Trust Vs. State of Punjab [2012 SAR (CIVIL) 441] to the effect that when there are several exemplars with reference to similar lands, the highest of the exemplars should be taken into account. Hence, after taking note of the sale transaction at S.No.8 where one cent of land was sold for Rs.12,208/- and S.No.18, under which, one cent of land was sold at Rs.15,625/- per cent, the Tribunal came to the conclusion that Rs.16,658/- per cent, as reflected in S.Nos.165, 166, 172 and 181 of the data sales could be the appropriate market value. Applying a deduction of 20% on the said value namely Rs.16,658/- per cent, the Tribunal arrived the market value as Rs.13,626/- per cent.

11. The reasonings given by the Tribunal, in our considered view, are in accordance with the parameters laid down by this Court as well as the Supreme Court. The Land Acquisition Officer was wrong in discarding the sales as reflected in S.Nos.165, 166, 172 and 181 on the sole ground that they related to small extents of lands. As rightly pointed out by the Tribunal, the first respondent himself had sold a land of the extent of 98 cents, for a total sale consideration of Rs.10 lakhs at least two years before the date of the Notification under Section 4(1). Even if we take that as the basis and apply the increase in the value year after year, we would arrive at the very same rate as fixed by the Tribunal. Therefore, we find no justification to interfere with the award of the Tribunal.

12. Accordingly, the appeal is dismissed. No costs.

13. It is stated that the appellant had already deposited 50% of the amount awarded. The first respondent is aged 81 years and has been implanted a pacemaker. Therefore, the learned counsel for the first respondent seeks permission to withdraw the amount lying in deposit immediately.

14. Considering the health condition of the first respondent, the first respondent is permitted to withdraw the amount lying to the credit of the Tribunal below forthwith. The appellant shall deposit the balance 50% of the compensation within 8 weeks. On such deposit being made, the first respondent is permitted to withdraw the same together with accrued interest. Consequently, M.P.No.2 of 2015 is ordered.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Subordinate Court, Ponneri.

+ 2 ccs to Mr.R. Krishnaswamy, Advocate Sr.42860
+ 1 cc to Additional Government Pleader Sr.42456

A.S.No.302 of 2015
and MP.No.2 of 2015

MP(CO)
Eu 28.08.15