In the High Court of Judicature at Madras

Dated : 10.9.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN
and
The Honourable Mr.Justice T.MATHIVANAN

A.S.No.397 of 2015 and M.P.No.1 of 2015

The Special Tahsildar, Land Acquisition, SIPCOT, TACID Division, Oragadam Scheme, Sriperumbudur ...Appellant/ Claimant

Vs

1.Thiru.Mahaveer Chand Bora

2.The Managing Director, SIPCOT, TACID, Egmore, Chennai-8. ...Respondents/ Respondent

APPEAL under Section 54 of the Land Acquisition Act against the judgment and decree dated 19.7.2011 made in L.A.O.P.No.1217 of 2008 on the file of the Subordinate Court, Kancheepuram.

For Appellant : Mr.P.Gunasekaran, AGP (AS)

For Respondent-1 : Ms.M.K.Jeyanthi
For Respondent-2 : Mr.Ramesh Venkatachalapathy

JUDGMENT WAS DELIVERED BY V.RAMASUBRAMANIAN,J

This appeal is filed by the Referring Officer under Section 54 of the Land Acquisition Act, 1894.

2. Since notices have been served on the land owner as well as the Requisitioning Body and since the parties have filed all documents, the appeal itself was taken up by consent for final hearing.

3. Heard Mr.P.Gunasekaran, learned Additional Government Pleader (AS) appearing for the appellant, Ms.M.K.Jeyanthi, learned counsel appearing for the first respondent - land owner and Mr.Ramesh Venkatachalapathy, learned counsel appearing for the SIPCOT, which is the Requisitioning Body.

4. The land of an extent of about 6.52.0 hectares in Oragadam Village, Sriperumbuduer Taluk, Kancheepuram District was acquired for the purpose of setting up an industrial development complex, at the

instance of the Small Industries Promotion Corporation of Tamil Nadu, which is the second respondent herein. The Notification under Section 4(1) of the Act was published in the Government Gazette on 1.2.1999. The acquisition was made by invoking the emergency clause under Section 17 and hence, after dispensing with the enquiry under Section 5(A), the Declaration under Section 6 was issued on 19.5.1999.

5. Thereafter, the Land Acquisition Officer fixed the compensation payable for the land at Rs.300/- per cent. On a reference to the Tribunal in L.A.O.P.No.1217 of 2008, the Subordinate Court, Kanchipuram enhanced the compensation to Rs.5,454/-, but after deducting 30% towards development charges, arrived at the compensation payable as Rs.3,820/- per cent. Aggrieved by the said enhancement, the Special Tahsildar is on appeal.

6. It is seen from the award passed by the Land Acquisition Officer that he took into account the fact that there were 485 sale transactions that had taken place during the period of three years immediately preceding the date of notification. Out of those 485 sale transactions, 344 transactions related to the land in the very same village namely Oragadam, from which, the acquisition was made.

7. Out of 344 transactions that had taken place in Oragadam Village itself, the Land Acquisition Officer rejected 326 transactions on the ground that they related to house sites. The remaining were also rejected for a variety of reasons. Eventually, the sale transaction at S.No.30 of the data sales, which related to the sale of 1.14 acres of land by a sale deed dated 8.11.1996, was taken into account and the Land Acquisition Officer arrived at the compensation payable as Rs.300/- per cent.

8. Before the Tribunal, the land owner was examined as C.W.1. He marked the copies of three sale deeds as Ex.C.1 to Ex.C.3. The survey sketch was filed as Ex.C.4. On the side of the Referring Officer, the Special Tahsildar was examined as R.W.1. The Manager of the SIPCOT was examined as R.W.2. The letter of development cost details was marked as Ex.R.1.

9. The Tribunal found that under Ex.C.1 - the sale deed dated 30.1.1997, the land of an extent of 2,400 sq.ft., was sold for Rs.24,000/-. Therefore, rate indicated was Rs.4,363/- per cent. Under Ex.C.2, the land together with a shop measuring an extent of 3099 sq.ft., was sold for Rs.43,864/-, which worked out to Rs.6,178/- per cent. Under Ex.C.3, a house site measuring an extent of 2,400 sq.ft was sold for Rs.30,000/- working out to Rs.5,454/- per cent.

10. In view of the decision of the Supreme Court that out of the exemplar sales, the sale deed, which indicates the highest rate, is to be taken into account, the Tribunal took Ex.C.3 as the indicator after rejecting Ex.C.2, as it related to the sale of a site with a building. On this amount of Rs.5,454/- per cent, the Tribunal allowed deduction of 30% and fixed the compensation at Rs.3,820/- per cent.

11. We do not find anything wrong with the reasoning given by the Tribunal. The Land Acquisition Officer himself took note of the fact that out of 485 sale transactions that had taken place in a period of three years preceding the Notification under Section 4(1), 344 related to sale of lands in the very same village namely Oragadam. Out of these 344 transactions, 326 admittedly related to house sites.

12. Oragadam Village is actually on the peripheries of the city of Chennai. It forms part of the urban agglomeration. The village has already developed into an industrial satellite city. Therefore, the Tribunal was right in holding that the rate indicated in the sale of house sites cannot be ignored. If more than 90% of the transactions had taken place in the very same village during the period immediately preceding the date of the notification under Section 4 (1), it is not permissible for the Land Acquisition Officer to reject all those sale deeds on the ground that they related to the sale of house sites. In view of the above, we find that the award of the Tribunal does not call for any interference.

13. Accordingly, the appeal is dismissed. No costs. Consequently, the above MP is also dismissed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

RS

To

The Subordinate Judge,
Kanchipuram

1 cc to Mr. Ramesh Venkatachalapathy, Advocate, Sr. 49630
1 cc to Government Pleader (AS), Sr. 49412

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TEJ (CO)
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