

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.10.2015.

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE T.MATHIVANAN

A.S.Nos.975 and 976 of 2015
and
M.P.Nos.1 and 1 of 2015

The Special Tahsildar, (LA)
Tamilnadu Road Sector Project,
Thiruvarur,
(Now at the Revenue Divisional Officer,
Mannargudi, Thiruvarur District.)
(Cause title accepted vide order dated
29.9.2015 made in M.P.No.1 of 2015
in A.S.SR 47205 of 2015) ...Appellant in both cases

vs.

Anbalagan Respondent in A.S.975/2015

Meenakshi (Late)

1. Ramalingam
2. Anbalagan
3. Manimehalai
4. Rajasekaran
5. Jayakumar
6. Arulselvi

Respondents in A.S.976/2015

Appeals against the judgments dated 25.2.2011 in
L.A.O.P.Nos.51 and 52 of 2009 respectively on the file of the
Subordinate Judge, Mannargudi.

For appellant : Mr.P.Gunasekaran,
Additional Government Pleader (AS)
For Respondents : Mr.A.Ilango (In Both Appeal)

COMMON JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

Both these appeals are by the Special Tahsildar (Land
Acquisition) under section 54 of the Land Acquisition Act, 1894.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant and Mr.A.Ilango learned counsel appearing for the respondents/land owners.

3. By Go.Ms.No.59, Highways (HF2) Department dated 16.3.2001, the Government accorded administrative sanction for the acquisition of the lands through private negotiations from Thiruvavarur, Kodavasal and Thiruthuraipoondi Taluks lying in 32 villages for widening and formation of bypass roads in Thiruvavarur District. The District Collector was successful in getting some lands sold to the Government through private negotiations. But, some villagers put up resistance, as a consequence of which, the Government invoked the provisions of the Tamil Nadu Highways Act, 2001.

4. Notices under section 15(2) of the Tamil Nadu Highways Act 2001 were served on the land owners on 17.1.2006. Publication in the locality was made on 21.4.2006. Thereafter, the Government published notification in the Gazette on 12.11.2007 for the acquisition of land measuring 0.30.52 hectare in R.S.Nos.195/5, 195/7, 195/8, 197/1 and 197/2 in Duraikadu Village, Thiruthuraipoondi Taluk.

5. The District Collector passed award No.14 of 2008 on 5.6.2008 fixing the compensation payable at Rs.700/- per cent (Rs.1.60 per sqft). Aggrieved by such fixation, the land owners sought references. The references were taken on file in L.A.O.P.Nos.51 and 52 of 2009 by the Sub Court, Mannargudi. By separate judgments dated 25.2.2011, the Tribunal enhanced the compensation to Rs.111/- per sqft. Aggrieved by such enhancement, the referring officer has come up with the above appeals.

6. It is seen from the award of the land acquisition officer that he took note of 125 sale transactions that had taken place during the period of one year immediately preceding the date of notification under section 15(2). Out of those sale deeds, the land acquisition officer rejected some of them on the ground that they are of house-sites. Some of them were rejected as the land on which coconut had been cultivated.

7. Interestingly, some data sales, wherein the sale deeds had been executed by the land owners in favour of the Government pursuant to the settlement reached before the District Level Negotiation Committee, were also rejected by the referring officer on the ground that they do not reflect the real market value.

8. Before the Tribunal, the land owners examined three persons as witnesses. The referring officer did not examine any one. An advocate was appointed by the Tribunal to find out whether the acquired lands had proximity to the lands that were purchased by the Government pursuant to the negotiations. The Commissioner filed a report which was marked as Ex.C1. The sketch filed by the surveyor was taken as Ex.X1.

9. On the basis of the fact that the lands purchased through negotiations were of the same type, the Tribunal came to the conclusion that the land owners in these cases are also entitled to the same amount of compensation.

10. It is contended by Mr.P.Gunasekaran, learned Additional Government Pleader that without even marking any sale deed, the land owners sought the fixation of compensation at Rs.111/- per sqft. According to the learned Additional Government Pleader, the Tribunal cannot ignore the parameters contained in sections 23 and 24 of the Land Acquisition Act, 1894 before arriving at the quantum of compensation. It is his further contention that when no sale deed was available before the Tribunal to come to the conclusion that the market value was Rs.111/- per sqft, the judgment of the Tribunal was wholly erroneous.

11. We have carefully considered the submissions. At the outset, we should point out one important fact. The acquisition in this case was made under the provisions of the Tamil Nadu Highways Act, 2001. The award was passed by the District Collector, in terms of section 19 of the Tamil Nadu Highways Act, 2001. Section 19 prescribes two different modes of determining the compensation. Section 19(1) makes it clear that the Government should pay an amount for the acquisition under the Act, which is determined in accordance with the other provisions of Section 19. Sub-section (2) of section 19 enables the Government to negotiate with the land owner and purchase the land by agreement. If any agreement is reached, a reference should be made to the Collector under section 19(3). The Collector, thereafter, should determine the compensation in terms of sub-section (6) of section 19.

12. Sub-section (6) of section 19 imports into the Tamil Nadu Highways Act, 2001, the provisions of sections 23 and 24 of the Land Acquisition Act, 1894.

13. Once the Collector passes an award under section 19(6), it is open to the land owner to seek a reference. Such a reference has to be made by the Collector under section 20(1) of the Act. Once a reference is made to the Collector under Section 20(1) of the Tamil Highways Act, 2001, the provisions of

Part III the Land Acquisition Act, 1894 would automatically apply.

14. Part III of the Land Acquisition Act, 1894 contains sections 18 to 28A of the Land Acquisition Act, 1894.

15. Once a court answers a reference under section 20(1), the decision of the court on such reference becomes final under subsection (2) of section 20. Subsections (1) and (2) of section 20 read as follows:-

"20. Reference to Court-- (1) Any person aggrieved by the decision of the Collector, or the officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, in so far as it affects him, by application to the Collector or the officer to whom the case was transferred, require that the matter be referred by him for the determination of the Court as defined in the Land Acquisition Act, 1894 (Central Act I of 1894), and when any such application is made, the provisions of Part III of the said Act shall mutatis mutandis apply to further proceedings in respect thereof.

(2) The decision of the Court on such reference and subject only to such decision, the decision of the Collector determining the amount shall be final"

16. Therefore, two things follow. The first is the provisions of Part VIII of the Land Acquisition Act, 1894, which contains section 54, which confers a right of appeal to both the parties is not made applicable under section 20(2) of the Tamil Nadu Highways Act.

17. This is further fortified by the finality attached to the award of the Tribunal under section 20(2) of the Tamil Nadu Highways Act, 2001. In such circumstances, we have our own doubts about the very maintainability of the present appeals by the Special Tahsildar under section 54 of the Land Acquisition Act, 1894, as the Tamil Nadu Highways Act, 2001 does not contain any reference to Part VII of the Land Acquisition Act, 1894 or provide for any remedy of appeal.

18. Anyhow, we will keep it aside for a moment and look into the correctness of the order of the Tribunal as in any case, we have a supervisory jurisdiction over the Tribunal both under Article 226 and under Article 227.

19. As rightly pointed out by the Tribunal, several sale deeds came to be executed by the land owners in favour of Government, after a process of negotiation through the District

Level Negotiation Committee. Those sale deeds form part of the data sales taken into account by the District Collector. Uniformly, the Government had accepted a rate of Rs.111/- per sqft for all the lands which they bought from the land owners through private negotiations.

20. The lands purchased by the Government through private negotiation, are found in serial numbers 22 to 27, 29, 32 to 34, 38, 48 to 75, 81, 84 and 87. Unfortunately, the District Collector had come to the conclusion that the sale deeds executed by the land owners in favour of the Government through private negotiations, did not reflect the real market value. Such a view is wholly erroneous.

21. The relevant portion of the award of the District Collector reads as follows:-

"The sales in Sl.No.22 to 26, 27, 29, 32, 33, 48 to 75, 81, 84 and 87 show the compensation amount paid to the land owners as fixed by the District Level Negotiation Committee. The sale value does not reflect the real market value of the acquisition sites. Hence they are discarded."

22. It is not as though the lands that form part of the present appeals are completely different from the lands that were acquired through private negotiations. We can demonstrate this in the form of a tabular column as under:

Details of the lands acquired			Details of the lands purchased through private negotiation		
Survey No.	Classification	Extent in Hectares	Survey No.	Classification	Extent
195/5	Manavari	0.05.65	194/7	Manavari	41 cents
195/7	Manavari	0.04.00	195/1	Manai	0.15 acre
195/8	Manavari	0.04.00	195/4	Manavari	41 cent
197/1	Manavari	0.14.37	197/4	Manavari	41 cents
197/2	Manavari	0.02.50	198/4	Manavari	0.0091 acre

23. Unfortunately, the Land Acquisition Officer had gone by the data sale at serial No.92. But, the Tribunal had accepted the Commissioner's report and came to the conclusion that the lands situate in the very same survey number had been purchased through private negotiations, even before the notices under section 15(2) were served on the land owners, at the rate of Rs.111/- per sqft. In such circumstances, the persons, who refused to accept the rate fixed by the District Collector's

Negotiation Committee, cannot be put to disadvantageous position and awarded a compensation which is 100 times less than what was paid through private negotiation.

24. Since the parameter for determining the compensation is what a willing purchaser would pay for the purchase of a land from a willing seller, the rate fixed by the Tribunal is correct.

25. It is relevant to note that the dates of the data sales at serial numbers 22 to 28 etc., are in July 2005, when the date on which notices under section 15(2) were served is 21.4.2006. Therefore, it is very unfair on the part of the appellant to deprive the same amount that they paid to the other land owners through private negotiations.

26. In the result, the appeals are dismissed. The appellant is given eight weeks time to deposit the amount. No costs. The connected miscellaneous petitions are also dismissed.

sd/-
Assistant Registrar (CO)

/TRUE COPY/

Sub-Assistant Registrar

ssk.

To
The Subordinate Judge, Mannargudi.

+2 CC to MR.A.Elango Advocate. SR.NO. 59722
+1 CC to Additional Govt.Pleader. SR.NO. 59629

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A.S.Nos.975 and 976 of 2015

CO-TEJ
JD 01/02/2016

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