

In the High Court of Judicature at Madras

Dated : 15.7.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

A.S.Nos.704 to 756 of 2014 & all connected pending MPs

A.S.No.704 of 2014 :

The Special Tahsildar (LA) Unit-1,
Outer Ring Road Project Phase I,
Chennai Metropolitan Development
Authority, Egmore, Chennai-8.Appellant in all WAS

Vs

Thiru N.Venkataraman	...1st Respondent in AS.704/2014
Dinakar	...1st Respondent in AS.705/2014
Panneer Selvam	...1st Respondent in AS.706/2014
K. Baskaran	...1st Respondent in AS.707/2014
Vijaya Lakshmi Gurusamy	...1st Respondent in AS.708/2014
Sujatha Raghavan	...1st Respondent in AS.709/2014
Usha	...1st Respondent in AS.710/2014
Vijaya Raghavan	...1st Respondent in AS.711/2014
Jayakumari	...1st Respondent in AS.712/2014
Velumani	...1st Respondent in AS.713/2014
Subha Sunder Rajan	...1st Respondent in AS.714/2014
S. Sundaravadivelu	...1st Respondent in AS.715/2014
Usha Karthikeyan	...1st Respondent in AS.716/2014
N.R. Shankar	...1st Respondent in AS.717/2014
Arokia Samy	...1st Respondent in AS.718/2014
Santha Rangarajan	...1st Respondent in AS.719/2014
R. Jothi	...1st Respondent in AS.720/2014
Manikkam	...1st Respondent in AS.721/2014
Jayakumar	...1st Respondent in AS.722/2014
Amala Doss	...1st Respondent in AS.723/2014
E. Saroja	...1st Respondent in AS.724/2014
Prema Krishnamurthy	...1st Respondent in AS.725/2014
C. Rani	...1st Respondent in AS.726/2014
Meenakshiammal	...1st Respondent in AS.727/2014
K. Arumugam	...1st Respondent in AS.728/2014
Jayasree Sridharan	...1st Respondent in AS.729/2014
M. Menan	...1st Respondent in AS.730/2014
K. Bharatham	...1st Respondent in AS.731/2014
R.S. Ayyalu	...1st Respondent in AS.732/2014

D. Jayaraman (deceased) ...1st Respondent in AS.733/2014 and A.S.737/14

K. Prabhavathy ...1st Respondent in AS.734/2014

P.G. Prabakaran ...1st Respondent in AS.735/2014

A.S. Kanmani ...1st Respondent in AS.736/2014

D. Jayaraman (deceased) ...1st Respondent in AS.737/2014

Kalahari david ...1st Respondent in AS.738/2014

Prema ...1st Respondent in AS.739/2014

Rama madesh ...1st Respondent in AS.740/2014

Alfred Manicka Raj ...1st Respondent in AS.741/2014

Vinoia Karnan ...1st Respondent in AS.742/2014

R. Gowri ...1st Respondent in AS.743/2014

Indra Prem ...1st Respondent in AS.744/2014

1 SATHYANARAYAMURTHY

2 UPADHAYAYULA SUBBALAKSHMI

3 KARRA PALLAYYA SARMA

4 KARRA PRABHAKAR SARMA

5 VADLAMANI ANANDHALAKSHMI

6 KARA VENKATESWARA SARMA

7 UPADHAYAYULA RAMA SEETHA ...1st Respondent in AS.745/2014

Prabhakar Sharma ...1st Respondent in AS.746/2014

Venkateswara Sharma ...1st Respondent in AS.747/2014

Pallaya Sarma ...1st Respondent in AS.748/2014

S. Chinnammal ...1st Respondent in AS.749/2014

M. Indra ...1st Respondent in AS.750/2014

Susila Pandi ...1st Respondent in AS.751/2014

1.Vijayalakshmi Singh

2. Tmt. J. Meena ...1st Respondent in AS.752/2014

1. Moosa Sulthan Mohammed Mohideen

2. Tmt. A. Samshath ...1st Respondent in AS.753/2014

1. P.R. Rajeswari

2. Thiru. R. Sairam ...1st Respondent in AS.754/2014

Hariharan ...1st Respondent in AS.755/2014

Sathyannarayanamurthy ...1st Respondent in AS.756/2014

2.The Member Secretary, Chennai Metropolitan Development Authority, Egmore, Chennai-8. ...2nd Respondent in all the AS

J. Mariammal ...Respondent 3 in A.S.733,737/14

J. Abirami (Minor)
(RR3 & 4 brought on record on LRS of
deceased R1 vide order
if court dated 15.7.2015
made in M.P.No.1/15)

...Respondents 4 in A.S.73, 737/14

For Appellant in all the appeals : Mr.P.Gunasekaran, AGP

For R1 in A.S.Nos.704 to732,734 to 736 & 752 of 2014: Mr.A.Babu

For Chennai Metropolitan Development Authority : Mr.C.Johnson

For newly impleaded parties in A.S.Nos.733 & 737 of 2014 :
Mrs.R.T.Shyamala

COMMON JUDGMENT

(Judgment was delivered by V.RAMASUBRAMANIAN,J)

These 53 appeals arise out of the enhancement of compensation granted by the Land Acquisition Tribunal. These appeals are filed by the Special Tahsildar (LA) under Section 54 of the Land Acquisition Act, 1894.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant, Mr.A.Babu, learned counsel appearing for some of the claimants, Mrs.R.T.Shyamala, learned counsel appearing for the legal heirs of the deceased claimant in A.S.Nos.733 and 737 of 2014 and Mr.C. Johnson, learned counsel appearing for the Chennai Metropolitan Development Authority, which is the Requisitioning Body.

3. A land of a total extent of about 17.50.0 hectares equivalent to 43.22 1/2 acres in Mudichur Village, Tambaram Taluk, Kanchipuram District, were sought to be acquired for the purpose of forming of a outer ring road, under the Outer Ring Road Project promoted by the Chennai Metropolitan Development Authority. A Notification under Section 4(1) of the Act was issued under G.O.Ms.No.413 Housing and Urban Development dated 18.10.2001. It was published in the Government Gazette on 14.11.2001 and in the locality on 12.12.2001.

4. After an enquiry was held under Section 5A, an amendment was issued to the Notification under Section 4(1) on 26.6.2012. Thereafter, a draft declaration under Section 6 was published on 3.12.2012.

5. By an award bearing award No.7/2004 passed on 29.10.2004, the Land Acquisition Officer came to the conclusion that the market value of the land could be fixed at Rs.1,000/- per cent. Aggrieved by the said fixation, the land owners sought references under Section 18. In a batch of about 53 petitions referred under Section 18 of the Act, the Subordinate Court, Tambaram, passed an award on 25.3.2014 enhancing the compensation to Rs.67,580/- per cent. Aggrieved by the said fixation, the Special Tahsildar (LA) has come up with the above appeals under Section 54.

6. It is seen from the award passed by the Land Acquisition Officer that he took into account about 597 sale transactions that took place during the period from 2.12.1998 to 31.12.2001. These 597 transactions were classified by the Land Acquisition Officer into different categories as follows :

"1. Sale of house sites	: 488
2. Sale in dry land	: 17
3. Sale in wet land	: 35
4. Sale in poramboke land	: 14
5. Sale in village site land	: 33
6. Sale in adi dravida village site land	: 10

Total	597

7. After categorizing the 597 sale transactions into the above types, the Land Acquisition Officer took the sale at S.No.158 as the basis. Under the said sale, the land of an extent of 0.28 acres of wet land had been sold for Rs.28,000/- under document No.1796 dated 16.9.1999. This is how the Land Acquisition Officer arrived at the market value and passed an award bearing award No.7/2004 dated 29.10.2004.

8. Before the Land Acquisition Tribunal, one land owner was examined as C.W.1 and the Special Tahsildar was examined as R.W.1. The certified copies of about 7 sale deeds were filed as Ex.C.1 to Ex.C.7. The letter from the office of the Sub-Registrar, Padappai indicating the guideline value of the land as on 1.4.2001 in the area was filed as Ex.C.8. The certified copy of another award passed in L.A.O.P.No.358 of 2009 was filed as Ex.C.9. On the side of the appellant, no document was marked.

9. The Land Acquisition Tribunal found that under Ex.C.1 sale deed dated 16.12.1998, a land of an extent of 1187 sq.ft., in the same village in S.F.No.22/1A had been sold for a sale consideration of Rs.3 lakhs. There was a building on the land, which was valued at Rs.2,40,750/-. The land value had been shown as Rs.59,350/-. Therefore, as per this document, the rate per cent worked out to Rs.21,800/-.

10. Under Ex.C.2 sale deed dated 17.5.2000, the land of an extent of 1,296 sq.ft. together with a building thereon had been sold for Rs.3,21,870/-. On this basis, after deducting the value of the building, it was found that the market value of the land was Rs.41,420/- per cent. Under Ex.C.6 sale deed dated 17.9.2001, which was the closest to the date of the Notification under Section 4(1), the land value worked out to Rs.67,580/- per cent. Therefore, on the basis of the principles laid down by this Court and the Apex Court, the Tribunal took the market value indicated by Ex.C.6, to be the guiding factor for finding the market value of the land acquired.

11. It is contended by Mr.P.Gunasekaran, learned Additional Government Pleader that when the lands acquired were either wet lands or dry lands, it was not correct on the part of the Land Acquisition Tribunal to take into account the market value as reflected in sale transactions relating to house sites. Hence, he contended that the Tribunal was completely in error in taking as the guiding factor the rate reflected in sale deeds relating to house sites.

12. We have carefully considered the above submissions.

13. It is true that when vast extents of land, both dry and wet, are acquired, the Tribunal or the Land Acquisition Officer cannot go by the market value of a very small extent of house site sold under a very stray document. But, the application of the above principle to cases of this nature, is in great doubt. We have already extracted the fact that the Land Acquisition Officer took note of 597 sale transactions that had taken place during the period from December 1998 to December 2001. Out of these 597 sale deeds, a total of 488 sales related to house sites. This showed that the area had already developed into a town area where the buildings have started coming up. Even the documents filed under Ex.C.1 to Ex.C.7 very clearly showed that in many of the lands, buildings had already come up.

14. Even the Land Acquisition Officer accepted during his evidence that there are several residential colonies such as Srinivasan Nagar, Venkatesa Avenue, Bhimeshwaran Nagar, A.N.Colony, Sakthi Nagar, Navodhaya Estate, Anna Nagar, Varadharaja Perumal Nagar, Parvathi Nagar, Pallavan Nagar, Kannan Avenue and Amudham Nagar in the nearby area. There was a big lake situate opposite to the acquired land. A church and two temples were also located. There was a matriculation school, yet another school and two colleges located from near the acquired land. Perungalathur Railway Station, Tambaram Railway Station, Tambaram Bus Stand, banks and court complexes were situate near the land. There were at least four hospitals namely Hindu Mission Hospital, Deepam and Kasturi Hospitals, etc. There were also three engineering colleges and a theme park located 1 Km away. Therefore, the Land Acquisition Tribunal took all the locational advantage of the land. The area

nearby had already developed into a residential area. Hence, the Tribunal went by the principles laid down in various decisions of this Court to come to a conclusion that the value reflected in the nearest document namely Ex.C.6 should form the basis.

15. It must be pointed out that Mudichur is actually a village next to Tambaram. Tambaram is located at a distance of 25 Km from 0 point in the city of Chennai. The area had already developed even 30 years ago, after the second master plan issued by the Chennai Metropolitan Development Authority. The project, for which the land was acquired, was a Outer Ring Road Project. Therefore, we are of the considered view that the Tribunal was right in going by Ex.C.6 and in fixing the rate at Rs.67,580/- per cent.

16. As rightly pointed out by the learned counsel appearing for the claimants, the document that reflects the highest value can be taken note of, provided the sale transaction relating to the document preceded the date of Notification under Section 4(1) and the document was not borne out of either aberration or an abnormal fixation. This is the dictum laid down by this Court in State of Madras rep.by the Collector of Madras Vs. Seetharamammal [1972 (1) MLJ 58]. The Tribunal rightly took into account the decision of the Supreme Court in Nelson Fernandes & Others Vs. Special Land Acquisition Officer, South Goa & Others [2007 (9) SCC 447] to hold that wherever the lands are acquired for laying of roads, there is no necessity for deducting the development charges.

17. As a matter of fact, the very fact that 488 data sales out of 597 related to house sites, on which, several buildings have come up, showed that the area was already developed. In such circumstances, we are of the considered view that the Tribunal was right in coming to the conclusion that it did. Hence, the award of the Tribunal does not call for any interference.

18. Accordingly, the above appeals are dismissed. The appellant is granted a time of eight weeks to deposit the balance amount. Upon such deposit, the claimants or their legal heirs are entitled to withdraw the amounts. The Additional Government Pleader is entitled to separate fees. No costs. Consequently, all connected pending MPs are also dismissed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

RS

To

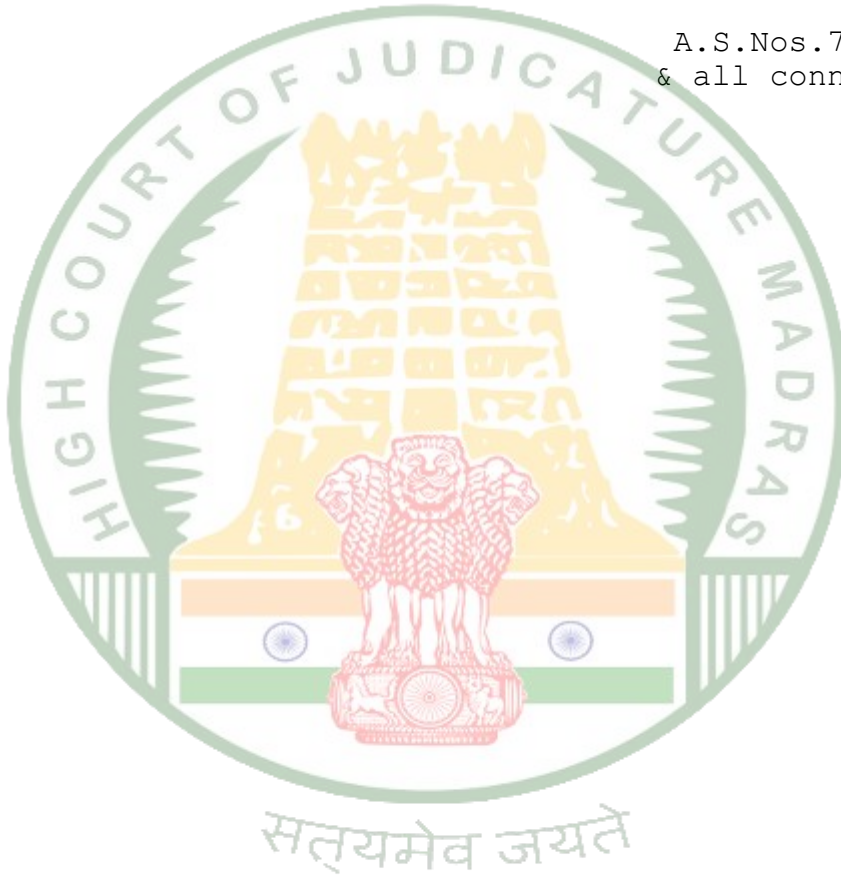
1. The Subordinate Judge,
Tambaram

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai-8.

3 ccs to Mr.A. Kumaragurubaran, Advocate, Sr. 35755
1 cc to Government Pleader, Sr. 36255

A.S.Nos.704 to 756 of 2014
& all connected pending MPs

AD (CO)
kk 5/5



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