IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.8.2015

CORAM

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

A.S.Nos.267 to 284 of 2010

THE SPL TASHILDAR
SIPCOT HOSUR. ...PETITIONER in AS No.267,268,269,270,271, 272,273,274,275,276,277,278,279, 280,281,282,283,284 of 2010

Vs

MUNUSAMY ...1ST RESPONDENT in AS No.267 of 2010

MUNUSAMY ...1ST RESPONDENT in AS No.268 of 2010

VENKATTASAMY ...1ST RESPONDENT in AS No.269 of 2010

VENKATALAKSHMAMMA ...1ST RESPONDENT in AS No.270 of 2010

SRIRAMULU ...1ST RESPONDENT in AS No.271 of 2010

RAJENDRAN ...1ST RESPONDENT in AS No.272 of 2010

PRASANTH ...1ST RESPONDENT in AS No.273 of 2010

RANGAPPA ...1ST RESPONDENT in AS No.274 of 2010

RANGANAYAGI ...1ST RESPONDENT in AS No.275 of 2010

MUNIRAJ ...1ST RESPONDENT in AS No.276 of 2010

CHINNAMAIYA ...1ST RESPONDENT in AS No.277 of 2010

MUNIRAJ ...1ST RESPONDENT in AS No.278 of 2010

MANJUNATH ...1ST RESPONDENT in AS No.279 of 2010

SAMBANGI ...1ST RESPONDENT in AS No.280 of 2010

KRISHNAPPA ...1ST RESPONDENT in AS No.281 of 2010

MUNIVENKATAPPA ...1ST RESPONDENT in AS No.282 of 2010

NAGARAJ ...1ST RESPONDENT in AS No.283 of 2010

SRIRAMULU ...1ST RESPONDENT in AS No.284 of 2010

THE PROJECT OFFICER
SIPCOT LTD HOSUR. .... 2nd Respondent in all the AS's

Appeal under Section 54 of the Land acquisition Act, against the order and decree dated 15.09.2009 made in LAOP Nos.31,37,38,39,40,41,42, 54,55,56, 57,58,59,60,61,64,65,66 of 2007 respectively, on the file of the Sub Court, Hosur.

Appeal under Section 54 of the Land Acquisition Act, against the order and decree dated 15.9.2009 made in LAOP No.31 of 2007 on the file of Sub Court, Hosur.

For Appellant : Mr.P.Gunasekaran, Addl.G.P. (AS)

For Respondent-1 : Mr.V.Raghavachari

For Respondent-2 : Mr.Ramesh Venkatachalapathy

J U D G M E N T
(Delivered by V.Ramasubramanian,J)

These appeals are filed by the Special Tahsildar, Land Acquisition, for the Small Industries Promotion Corporation of Tamil Nadu (hereinafter referred to as 'SIPCOT'), questioning the enhancement of compensation granted by the Sub Court, Hosur, in references under Section 18 of the Land Acquisition Act, 1894.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellants, Mr.Raghavachari, learned counsel appearing for the land owners and Mr.M.Ramesh Venkatachalapathy, learned counsel appearing for the requisitioning body, namely, SIPCOT.

3. On a request made by SIPCOT, for the development of certain lands for the promotion of an industrial complex, the Government of Tamil Nadu issued a notification under Section 4 (1) of the Land Acquisition Act, 1894, under G.O.Ms.No.229, Industries, dated 08.6.2000. The Notification was published in the Government Gazette on 28.6.2000 and in the newspapers on 03.7.2000 and 04.7.2000.

4. After the publication of the declaration under Section 6 of the Act, an enquiry relating to fixation of compensation was undertaken. By an award bearing No.2 of 2007, passed on 16.3.2007, the Land Acquisition Officer fixed the compensation at the rate of Rs.500/- per cent. The land owners, not satisfied with such fixation of compensation, sought references under Section 18 of the Act.

5. In the references made by the District Collector, which were numbered as L.A.O.P.Nos.31, 37 to 42, 54 to 61, 64 to 66 of 2007, the Sub Court, Hosur, by order dated 15.9.2009, enhanced the compensation to Rs.8000/- per cent. Aggrieved by the enhancement of compensation, the Land Acquisition Officer has come up with the above appeals.

6. The Land Acquisition Officer took note of the fact 235 sale transactions had taken place during the relevant period. Out of them, 203 were discarded as they related to house sites, 20 were discarded as they were located in a distance of between 1.6 kms and 4 kms from the acquired lands, 1 was discarded as it was located near the industrial area and 10 were discarded as the sale transaction relating to land and buildings. Eventually, the Land Acquisition Officer took note of the sale transaction at serial No.171, where under the land of an extent of 0.84.0 hectares, which was located within 1.6 kms of the acquired lands, had been sold for Rs.1,03,500/- under a sale deed dated 27.10.2004 and fixed the compensation at Rs.500/- per cent.

7. Before the Sub Court, claimant in one of the petitions was examined as C.W.1 and filed 25 sale deeds as Exx.C1 to C25. The Special Tahsildar was examined as R.W.1 and he filed 9 documents as Exx.R1 to R9.

8. The Sub Court, on the basis of the evidence on record, found that for the purpose of development of an industrial complex, lands were acquired by the Government in two phases and the award bearing No.4 of 2007 related to the acquisition of lands for Phase-II. The acquisition for Phase-I took place during the period from 1982 to 1987 and that therefore, before a Notification was issued in the year 2000 for the acquisition of lands under Phase-II, about 300 industries had already come up.

9. The sale deeds dated 11.10.1999, 31.1.2000, 3.3.2000, 30.3.2000 were all marked by the claimants as Exs.C1 to C4. Ex.C5 was another sale deed dated 26.6.2000. All other sale deeds were of the years 2003 and 2004, which were subsequent to the date of the Notification under Section 4(1). On the basis of the said documents and on the basis of the documents produced on the side of the requisitioning body, the Tribunal found that the lands acquired were located in a place where about 40 acres of land had already been acquired for the benefit of the Tamil

Nadu Housing Board and about 500 acres had already been acquired for the development of an industrial complex under Phase-I. Therefore, the Tribunal found that as on the date of the Notification under Section 4(1), the lands acquired were already in an area which was already developed into an industrial city.

10. After taking into account the law laid down by this Court and the Apex Court with reference to the sale of smaller extents of lands, the Tribunal came to a conclusion that the data land taken by the Land Acquisition Officer was located 1.6 Kms away and that the same could not have formed the basis for fixation of market value. After so rejecting the data land at Serial No.171, which formed a foundation for the Acquisition Officer to fix the market value, the Land Acquisition Tribunal took note of Exs.C1 to C5. After comparing the same with Exs.C7 and C9, the Tribunal took note of G.O.Ms.No.38, Industries, dated 05.7.2004, whereby certain lands were acquired by the Government, after negotiating with the land owners, under the provisions of the Tamil Nadu Act 10 of 1999, for industrial purposes. After taking note of the said Government Order, the Land Acquisition Tribunal came to the conclusion that the Government was prepared to pay a sale consideration up to Rs.5.00 Lakhs per acre, after negotiations. Therefore, the Tribunal came to the conclusion that the sale consideration fixed as Rs.18,72,260/- (Rupees eighteen lakhs seventy two thousand two hundred and sixty only) per acre under Ex.C9 could form the basis, from which the market value could be arrived at. After taking the said amount as the basis, the Tribunal deducted 57% towards development charges and came to the conclusion that the market value could be fixed at Rs.8 lakhs per acre. In other words, though the Tribunal went by Ex.C9, it deducted 57% towards development charges and fixed the compensation only at Rs.8 lakhs per acre. Fortunately, for the requisitioning body and the Government, the land owners have not come up either with independent appeals or with cross-appeals, to question the deduction of 57% towards development charges.

11. It is seen from the judgement delivered on 05.8.2010, by K.Chandru,J, in A.S.Nos.429 to 442, 545 to 547, 553 to 562, 536 to 573 and 720 to 729 of 2008 that, in respect of the lands acquired under Phase-I of the very same project, the learned Judge has upheld the deduction of 40% towards development charges and upheld the fixation of compensation at Rs.1,00,660/- per acre, awarded by the Land Acquisition Tribunal. When the deduction of development charges at 40% itself has been approved, the appellant cannot have any objection to the deduction of 57% towards development charges. The decision of the learned Judge dated 05.8.2010 related to the acquisition under Phase-I, where the notification under Section 4(1) of the Act had been issued on 6.9.1995.

12. In the cases on hand, the Notification under Section 4 (1) had been issued in August 2000. During this period of five years, the lands acquired for Phase-I had been developed and about 300 industries had already come up. Therefore, the Tribunal, in our considered view, was right in taking note of two important things, namely, (i) after the acquisition for Phase-I, lot of developments had virtually taken place and the land had become a prime land, and (ii) that the Government was prepared to pay a rate up to Rs.5.00 Lakhs per acre through negotiations under the provisions of the Tamil Nadu Industrial Acquisition Act, 1999 (Tamil Nadu Act 10 of 1999). In such circumstances, we find no justification to interfere with the awards passed by the Land Acquisition Tribunal. Hence, all the above appeals are dismissed. There will be no order as to costs. Connected miscellaneous petitions are dismissed.

13. The learned Government Advocate is entitled to separate fees. The requisitioning body is granted a time of eight weeks for deposit of the balance of amount, after adjusting the amount already deposited.

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

kpl

To

1. The Sub Judge, Hosur.

2. The Project Officer,
SIPCOT Limited, Hosur

3. The Section Officer,
V.R.Section, High Court,
Madras.

+ 1 cc to Mr.V.Raghavachari, Advocate SR 44129

+ 1 cc to AGP (AS) SR 44183

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