

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2015

Coram:

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

A.S.Nos.422 to 445, 446 to 476, 249 to 260
and 286 to 303 of 2010
and

M.P.Nos.1 and 2 of 2010 (in all the cases)

The Special Tahsildar (LA),
SIPCOT, Hosur

... Appellant in all AS

vs.

Rajappa
S/o. Sonnappa

...1st Respondent in
A.S.No.422, 424, 426/10

Pasappa

...1st Respondent in
A.S.No.423, 425, 427/10

Kamala Manoharan

...1st Respondent in
A.S.No.428/10

Sentrappa

...1st Respondent in
A.S.No.429/10

Kolothungan

...1st Respondent in
A.S.No.430/2010

Radhakrishnan

...1st Respondent in
A.S.No.431/10

Ranganathan

...1st Respondent in
A.S.No.432/10

Venkatesh

...1st Respondent in
A.S.No.433/2010

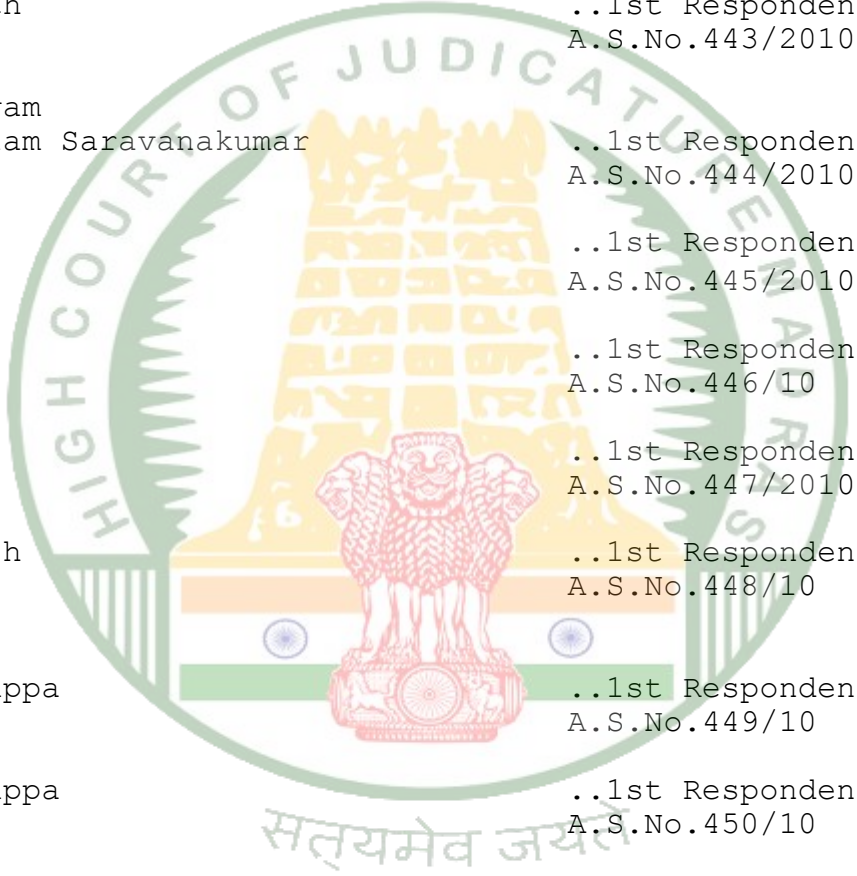
Venkataramaiya

...1st Respondent in
A.S.No.434, 435, 436/10

Erappa
S/o. Chokkappa

...1st Respondent in
A.S.No.437/10

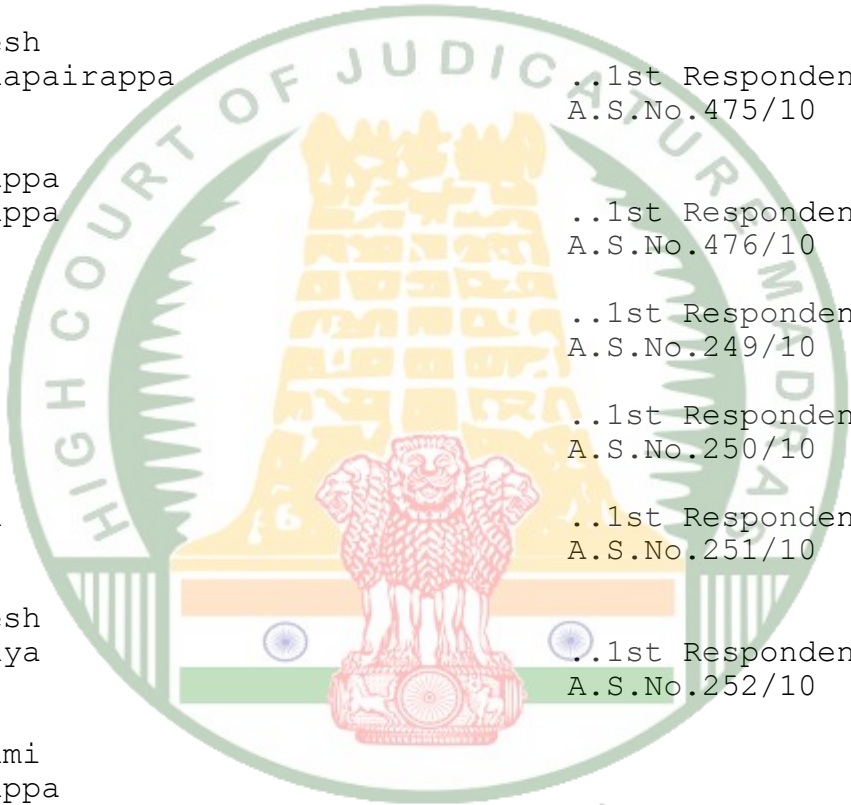
Venkatamma	..1st Respondent in A.S.No.438/10
Geetha Gowdu	..1st Respondent in A.S.No.439, 440/10
V. Nagaraj	..1st Respondent in A.S.No.441/2010
C.H. Prakash	..1st Respondent in A.S.No.442/2010
T.S. Ananth	..1st Respondent in A.S.No.443/2010
Babu Murugam @ Malliam Saravanakumar	..1st Respondent in A.S.No.444/2010
Prakash	..1st Respondent in A.S.No.445/2010
Sonnappa	..1st Respondent in A.S.No.446/10
Bairappa	..1st Respondent in A.S.No.447/2010
Venkatatesh	..1st Respondent in A.S.No.448/10
Erappa S/o. Kullappa	..1st Respondent in A.S.No.449/10
Chakkaralappa	..1st Respondent in A.S.No.450/10
Muni Sowdappa	..1st Respondent in A.S.No.451/10
Krishnappa	..1st Respondent in A.S.No.452/10
Sriramulu	..1st Respondent in A.S.No.453/10
Prakash	..1st Respondent in A.S.No.454/10



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Gurunath	..1st Respondent in A.S.No.455/10
G. Krishnappa	..1st Respondent in A.S.No.456/10
Nagaraj	..1st Respondent in A.S.No.457/10
Erappa S/o. Gullappa	..1st Respondent in A.S.No.458/10
Deveeramma	..1st Respondent in A.S.No.459/10
Ramayya	..1st Respondent in A.S.No.460/10
Chinnakeerappa	..1st Respondent in A.S.No.461/2010
Petthakeerappa	..1st Respondent in A.S.No.462/10
Thimmaroyappa	..1st Respondent in A.S.No.463/2010
Krishnappa	..1st Respondent in A.S.No.464/2010
Nagaraj S/o. Pairappa	..1st Respondent in A.S.No.465/2010
Sriramalu S/o. Venkatesh	..1st Respondent in A.S.No.466/10
Chinnasamy	..1st Respondent in A.S.No.467/2010
Sriramalu S/o. Late Chinnasamy	..1st Respondent in A.S.No.468/2010
Sampangiappa	..1st Respondent in A.S.No.469/10
Muniraj	..1st Respondent in A.S.No.470/10

Lokesh	..1st Respondent in A.S.No.471/10
Munivenkatappa	..1st Respondent in A.S.No.472/10
Jeyappa	..1st Respondent in A.S.No.473/10
Nanjamma	..1st Respondent in A.S.No.474/10
C. Venkatesh S/o. Chinnapairappa	..1st Respondent in A.S.No.475/10
Thimmaroyappa S/o. Sathappa	..1st Respondent in A.S.No.476/10
Thimmakka	..1st Respondent in A.S.No.249/10
Chithappa	..1st Respondent in A.S.No.250/10
Lakshmmama	..1st Respondent in A.S.No.251/10
C. Venkatesh S/o. Onapaya	..1st Respondent in A.S.No.252/10
Venkattasami Sampangiyappa Krishnappa	..1st, 2nd and 3rd Respondent in A.S.No.253/10
Anjappa	..1st Respondent in A.S.No.254/10
Rajappa S/o. Ramaiah	..1st Respondent in A.S.No.255/10
Ravikumar	..1st Respondent in A.S.No.256/10



Seenappa	..1st Respondent in A.S.No.257/10
Venkatasamy Nagarathinamma	..1st&2nd Respondent in A.S.No.258/10
Venkatasamy	..1st Respondent in A.S.No.259/10
Sowdareddy	..1st Respondent in A.S.No.260/10
Chonnappa	..1st Respondent in A.S.No.286/10
Pairappa	..1st Respondent in A.S.No.287/10
Venkatesh	..1st Respondent in A.S.No.288/10
Munusamy	..1st Respondent in A.S.No.289/10
Munusamiyappa	..1st Respondent in A.S.No.290/10
Yerappa	..1st Respondent in A.S.No.291/10
Sriramulu	..1st Respondent in A.S.No.292/10
Prakash	..1st Respondent in A.S.No.293/10
Gurunath	..1st Respondent in A.S.No.294/10
Krishnappa	..1st Respondent in A.S.No.295/10
Nagaraj	..1st Respondent in A.S.No.296/10
Chinnakirappa	..1st Respondent in A.S.No.297/10

Thimmaroyappa	..1st Respondent in A.S.No.298/10
Petthakirappa	..1st Respondent in A.S.No.299/10
Deveeramma	..1st Respondent in A.S.No.300/10
Ramaiya Petha Veerappa	..1st and 2nd Respondents in A.S.No.301/10
Kempaiyya	..1st Respondent in A.S.No.302/10
Logesh	..1st Respondent in A.S.No.303/10
2.The Project Officer, SIPCOT Limited, Hosur	... 2nd Respondents in A.S.No.422 to 445, 446 to 476, 249 to 252, 254 to 257, 259 & 260, 286 to 300 & 302 & 303/2010 3rd Respondent in A.S.No.258 & 301/2010 4th Respondent in A.S.No.253/10

Appeal suit preferred u/s 54 of the Land Acquisition Act as against the Judgment and decree passed by the Subordinate Judge, Hosur, in L.A.O.P.Nos.110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109 of 2007 respectively as per order dated 7.12.2009 and L.A.O.P.No.67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97/2007 respectively as per order dated 13.11.2009 and L.A.O.P.Nos.5/2007, 6/2007, 7, 12, 21, 22, 23, 24, 25, 26, 29 and 30/2007 respectively order dated 12.8.2009 and L.A.O.P.No.32/2007, 33, 34, 35, 36, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 62 & 63 of 2007 respectively order dated 7.10.2009

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

For Respondents : Mr.V.Raghavachari for R1 in All A.S. and
for R2 & R3 in A.S.253/2010 and for R2
in A.S.301/10

Mr.M.Sriram for
M/s.Ramesh Venkatachalapathy for R2 in

A.S.Nos.422 to 476, 249 to 252/2010 &
254 to 257, 259 & 260, 286 to 300/2010
& 302 & 303/2010 & R3 in A.S.NO.258 &
301/2010 R4 in A.S.253/2010

COMMON JUDGMENT

(Judgment of the Court was 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.295, Industries, dated 17.8.2000. The Notification was published in the Government Gazette, on 6.9.2000 and in the newspapers on 25.8.2000 and 30.08.2000.

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.4 of 2007, passed on 29.3.2007, 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.98 to 121 of 2000, the Sub Court, Hosur, enhanced the compensation to Rs.8000/- per cent. Contending that the enhancement was exorbitant, the Land Acquisition Officer, has come up with the above appeals.

6. It is seen from the award passed by the Land Acquisition Officer that he took the land at Serial No.171, among the data lands, for the purpose of arriving at the market value of the land as Rs.500/- per cent. Serial No.171, among the data lands, was a sale in respect of the land of an extent of about 0.84.0 hectare. It had been sold for a sum of Rs.1,03,500/-. The sale deed was dated 27.10.2004. Even as per the award of the Land

Acquisition Officer, the data land, which induced him to fix the compensation at Rs.500/- per cent was located about 1.6 Kms away from the acquired land. However, the Land Acquisition Officer rejected all other data lands and took into account the sale indicated in Serial No.171 and arrived at the market value as Rs.1,23,500/- per Hectare. It worked out to Rs.500/- per cent.

7. Before the Land Acquisition Tribunal, the land owners filed copies of about 25 documents as Exs.C1 to C25. One of the land owners was examined as C.W.1. The Special Tahsildar was examined as R.W.1 and nine documents were marked as Exs.R1 to R9 on the side of the Land Acquisition Officer.

8. The Land Acquisition Officer found from the evidence on record that for the purpose of development of an industrial complex, lands were acquired by the Government in two phases. The award bearing No.4 of 2007 related to the acquisition of lands for Phase-II.

9. On the basis of the evidence on record, the Tribunal found that 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.

10. 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).

11. On the basis of the above 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. 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 5.7.2004, 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 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.

12. It is seen from the judgement delivered on 05.08.2010, 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 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 5.08.2010 related to the acquisition under Phase-I, where the notification under Section 4(1) of the Act had been issued, on 6.9.1995. 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, lots of development 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 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, especially when the Tribunal has awarded the compensation on the basis of the aforesaid two factors and had gone to the extent of deducting 57% towards development charges. 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.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

msk

To

1. The Subordinate Judge,
Hosur

2. The Section Officer
VR Section
High Court, Madras

1 cc to Additional GP (AS) Sr. 33939

42 ccs to Mr. Ramesh Venkatachalapathy, Advocate, sr. 34194, 34195

3 ccs to Mr.V. Raghavachari, Advocate, Sr. 33753, 33754, 33755

A.S.Nos.422 to 445, 446 to 476, 249 to 260
and 286 to 303 of 2010

KJI (CO)
kk 14/6

सत्यमेव जयते

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