

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

A.S.Nos.472 to 480 of 2012 & all connected pending MPs

The Special Tahsildar, Outer
Ring Road Project, CMDA,
Egmore, Chennai-8 now office
at Koyambedu Wholesale Market
Complex,
Chennai-92.

...Appellant in all the ASs.

Vs

1.N.Ramaiya	...R1 in AS.No.472 of 2012
2.P.K.Rajan (a) P.Kasirajan	...R1 in AS.No.473 of 2012
3.V.B.Poominathan	...R1 in AS.No.473 of 2012
4.A.Senthur Pandian	...R1 in AS.No.475 of 2012
5.K.V.Anthony	...R1 in AS.No.476 of 2012
6.A.Vasuki	...R1 in AS.No.477 of 2012
7.V.P.Poominathan	...R1 in AS.No.478 of 2012
8.C.Ramesh Kumar	...R1 in AS.No.479 of 2012
9.D.Muthu	...R1 in AS.No.480 of 2012
10.The Member Secretary, CMDA, Egmore, Chennai-8.	...R2 in all the ASs.

APPEALS under Section 54 of the Land Acquisition Act, 1894
against the common award dated 29.4.2011 made respectively in
LAOP.Nos.329, 335, 336, 339, 344, 345, 375, 430 and 448 of 2008
on the file of the Additional District Court (FTC-II),
Poonamallee.

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

For Claimants in all the appeals : Mr.R.Subramanian

For CMDA :Mr.C.Johnson

COMMON JUDGMENT

(Judgment was delivered by V.RAMASUBRAMANIAN,J)

These appeals are filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894, challenging the enhancement of compensation granted by the Additional District Court, Poonamallee.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant, Mr.R.Subramanian, learned counsel appearing for the claimants and Mr.C.Johnson, learned Standing Counsel for the Chennai Metropolitan Development Authority.

3. By G.O.Ms.No.381 Housing and Urban Development Department dated 25.5.1993, the Government approved proposals for development of Outer Ring Road. The administrative sanction was accorded by G.O.Ms.No. 983 dated 27.11.1995 for the acquisition of land for Phase-I. By G.O.Ms.No. 385 dated 16.10.1998, the administrative sanction was accorded for land acquisition for Phase-II.

4. The Notification under Section 4(1) was published in the Government Gazette on 10.9.2004. It was published in the newspapers on 2.11.2004 and in the locality on 5.11.2004.

5. In respect of lands of the extent of 4.68.0 hectares in S.F.Nos. 550/3, 550/4, 551/1, 551/2A1, 551/3 and 556/1 in Pammadukulam Village, Ambattur Taluk, acquired by the said Notification, an award was passed in award No.4/2007 dated 30.10.2007. Before passing the award, the Land Acquisition Officer took note of the fact that about 408 sale transactions had taken place during the period of three years immediately preceding the date of Notification under Section 4(1). Out of them, 197 transactions were rejected on the ground that they related to house sites. 53 sale transactions were rejected on the ground that though the acquisition field is similar in soil/sort/tharam for the dry lands, there is a sale near the acquisition area. 7 sale transactions were rejected on the ground that proceedings under Section 7A of the Indian Stamp Act were pending. 58 sale transactions were discarded on the ground that the lands were located 1.6 Kms away. 40 sale transactions

were discarded on the ground that they related to manavari lands sold as house sites.

6. Eventually, the Land Acquisition Officer took note of only one sale transaction at S.No.17 wherein the land of an extent of 42 cents in S.F.No. 565/19A and 19B was sold at the rate of Rs.550/- per cent. Therefore, the Land Acquisition Officer fixed the compensation at Rs.550/- per cent.

7. The references made under Section 18 were taken on file by the Additional District Court, Poonamallee in L.A.O.P.Nos.329, 335, 336, 339, 344, 345, 375, 430 and 448 of 2008. One of the claimants was examined as C.W.1 and three documents were marked as Ex.C1 to Ex.C3. Ex.C.1 was the sketch of the Outer Ring Road. Ex.C.2 was a sale deed dated 23.5.2003 in respect of the land in S.F.No.601/3. Ex.C.3 was a sale deed in respect of the land in S.F.Nos.601/1B1 and 601/114. The Special Tahsildar was examined as R.W.1 and the award was marked as Ex.R.1.

8. Going by the rate indicated in Ex.C.2, the Additional District Court, Poonamallee came to the conclusion that the market value of the land was Rs.18,312/- per cent and that the sales under Ex.C.2 and Ex.C3 had taken place much before the date of the Notification under Section 4(1). The Court below also found that some of the lands acquired were actually house sites located in a layout known as Vasanth Nagar Layout. Therefore, the Court below fixed the market rate at Rs.18,000/- (Rs.18,312/- reflected in Ex.C.2 and Ex.C.3 was rounded off to Rs.18,000/-) per cent. Aggrieved by such enhancement, the Land Acquisition Officer is before this Court.

9. Assailing the judgment and decree of the Court below, it is contended by the learned Additional Government Pleader that the Court below erred in going by the rate indicated in a sale deed relating to a very small extent of land. According to the learned Additional Government Pleader, small extent of lands sold at fancy prices cannot form the basis for determining the market rate. The Court below, according to the learned Additional Government Pleader, did not look into the distance between the land acquired and the land covered by Ex.C.2 and Ex.C.3.

10. We have carefully considered the above submissions.

11. At the outset, it should be pointed out that the village, in which, the acquired lands are located, is situate in Ambattur Taluk, which is within the urban agglomeration of the city of Chennai. The area has already developed fast into an industrial and semi urban area. Even as per the award passed by the Land Acquisition Officer, 408 sale transactions had taken place during a period of three years immediately preceding the date of Notification under Section 4(1). Out of them, more than about 50% related to sale of house sites. This is an indication that the lands ceased to be agricultural lands or rural lands, but had actually become part of urban area. As a matter of fact, portions of land acquired were already part of a layout of house sites known as Vasanth Nagar Layout. Therefore, we are of the considered view that the Additional District Court did not commit any mistake either of fact or of law in enhancing the compensation to Rs.18,000/- per cent.

12. The question as to whether the sale transactions relating to lands of smaller extent can be taken into account or not became a vexed question that comes up again and again before Courts. It is true that in Land Acquisition Officer Vs. Sreelatha Bhoopal [(1997) 9 SCC 628], the Supreme Court held that while determining the market value of large extent of land, it is improper to place reliance upon sale deeds relating to small pieces of land. Even in The Executive Officer v. Chandra Bisori [2000 (2) CTC 555], it was held that the adoption of the sale value of small pieces of land was impermissible.

13. However, in Trishalal Jain v. State of Uttaranchal [(2011) 6 SCC 47], the Supreme Court held that the value indicated in the sale deeds relating to small pieces of land can also be taken into consideration for determining the value of a large tract of land. However, the said opinion was coupled with a rider that while taking such transactions into account, the Court has to make a reasonable deduction keeping in view the other attendant circumstances. The view taken in Trishalal Jain was also followed in Mehra Lal Khewaji Trust v. State of Punjab [2012 4 LW 109].

14. But, in the case on hand, the land was located in an area that had already developed. The village was part of a taluk that was in the peripheries of the city of Chennai. More than 50% of the data sales related to house sites. Therefore, the appellant cannot avoid the adoption of the same value.

15. In view of the above, we find no merit to interfere with the award of the Additional District Court.

16. Accordingly, the above appeals are dismissed. Consequently, all connected pending MPs are also dismissed. No costs. The Additional Government Pleader is entitled to separate fees in these cases.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Additional District Judge,
Fast Track Court II,
Poonamallee.

Copy to:

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Additional Government Pleader Sr.56632

AS.Nos.472 to 480 of 2012
& all connected pending MPs

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srg 06/06/2016

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