THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.8.2015

CORAM

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

A.S.Nos.54 & 55 of 2012

The Special Tahsildar
Outer Ring Road Project
Chennai Metropolitan Development Authority
Egmore, Chennai 8
Now at Koyambedu Wholesale Market Complex Appellant in
Chennai 600 092. .. both A.S./Referring Officer

Vs.

Saraswathi .. R1 in AS No.54/12/Claimant

R.Palayam .. R1 in AS No.55/12/Claimant

The Member Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai 600 008. .. R2 in both A.S./R2

Appeals under Section 54 of the Land Acquisition Act against the order dated 16.9.2011 made in LAOP Nos.59 & 60 of 2004 on the file of the Additional District Court, FTC 2, Poonamallee.

For Appellant	:	Mr.P.Gunasekaran, AGP(AS)
For R1 in both A.S.	:	Mr.R.Subramanian
For R2 in both A.S.	:	No appearance

COMMON JUDGMENT

(Delivered by V.Ramasubramanian,J.)

These appeals are filed by the Special Tahsildar (Land Acquisition) under Section 54 of the Land Acquisition Act, 1894, questioning the correctness of the common award passed by the Land Acquisition Tribunal in LAOP Nos.59 and 60 of 2004.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellants and Mr.R.Subramanian, learned counsel for the first respondent/claimants. The second respondent, namely Chennai Metropolitan Development Authority, which is the requisitioning body, has been impleaded as the second respondent and

they have been served with notice. There is no appearance for them.

3. By a notification published on 08.9.2000 under Section 4(1) of the Land Acquisition Act, the Government sought to acquire a vast extent of land situate in Voyalanallur Village, Poonamallee Taluk, Tiruvallur District, for the purpose of formation of an Outer Ring Road, under the ORR Project undertaken by the Chennai Metropolitan Development Authority. After following the procedure, the Land Acquisition Officer fixed the compensation payable at Rs.550/- per cent under Award No.1/03 dated 29.8.2003. The first respondent/claimants herein sought references under Section 18. When these references were pending, the Sub Court, Poonamallee, had an occasion to deal with a batch of references in LAOP No.13 of 2009. By a judgment dated 02.8.2010, the Sub Court, Poonamallee enhanced the compensation awarded to Rs.31,650/- per cent in respect of the lands acquired in an adjoining village by name Chockanallur, Poonamallee Taluk, Tiruvallur District. Therefore, the copy of the award passed by the Sub Court, Poonamallee in LAOP No.13 of 2009 dated 02.8.2010 was marked as Ex.C6 before the Tribunal in LAOP Nos.59 and 60 of 2004 on the file of the Additional District Court, FTC 2, Poonamallee, out of which the present appeals arise. Based upon the award passed in LAOP No.13 of 2009, the Tribunal passed an order on 16.9.2011 in LAOP Nos.59 and 60 of 2004, fixing the compensation at Rs.22,000/- per cent. Aggrieved by such fixation, the Special Tahsildar has come up with the above appeals.

4. Sometime before the present appeals were filed in December 2011, the Special Tahsildar had filed an appeal in A.S.No.224 of 2011, challenging the award passed in LAOP No.13 of 2009 dated 02.8.2010, which was marked as Ex.C6 in the present proceedings. The said appeal, A.S.No.224 of 2011 was allowed by a Division Bench of this Court by a judgment dated 23.01.2013, reducing the compensation payable to Rs.23,000/- per cent. Keeping this in mind, we shall now proceed to consider the facts and the submissions made on both sides.

5. The sketch of the ORR Project undertaken by the Chennai Metropolitan Development Authority shows that Voyalanallur Village, about which we are concerned in these two appeals, adjoins Chockanallur Village, the lands situate in which became the subject matter of A.S.No.224 of 2011. It also appears that the lands in Voyalanallur Village and Chockanallur Village had a common survey number. Keeping this aspect in mind, we shall now examine the reasonings given by the Land Acquisition Officer and the reasonings given by the Tribunal.

6. The Land Acquisition Officer took note of the fact that there were 15 sale transactions during the period from 08.9.1997 to 07.9.2000. As we have stated earlier, the notification under Section 4(1) was issued on 24.7.2000 under G.O.Ms.No.304, Housing and Urban Development Department, which was published in the Government Gazette on 23.8.2000.

7. Out of the 15 sale transactions that had taken place during the period of three years immediately preceding the date of the notification, the Land Acquisition Officer discarded 10 transactions on the ground that those sale transactions reflected higher values. The Land Acquisition Officer discarded two other transactions on the ground that they related to Government poramboke lands.

8. Out of the remaining three transactions, the one at serial No.9 among the data sales, was a sale of an extent of about 0.51 acres in survey No.122/3A for a consideration of Rs.30,600/-, under document No.1163/98 dated 04.11.1998. The second one at serial No.12 was used for running a brick kiln and hence, the Land Acquisition Officer rejected it. The third document at serial No.10 related to the sale of 11 cents in Survey No.15/5A for a sale consideration of Rs.6050/- under a sale deed dated 10.02.1999. Therefore, the Land Acquisition Officer fixed the value at Rs.550/- per cent.

9. Before the Tribunal, the first respondent in A.S.No.55 of 2012 was examined as CW1. The first respondent in the other appeal was none else than his wife.

10. Nine documents were marked on the side of the claimants as Exx.C1 to C9 before the Tribunal. The Special Tahsildar examined herself as RW1 and filed the award bearing No.1/03 dated 29.8.2003 as Ex.R1.

11. On the basis of the evidence of RW1, the Tribunal came to the conclusion that four industrial estates had actually come into existence even before notification under Section 4(1) and that a total of about 1180 transactions had taken place even long before the notification was issued. Out of them, 1136 transactions related to house sites.

12. The Tribunal also took note of Ex.C6, whereby, the lands in Chockanallur Village falling under the same survey number were fixed a market rate of Rs.31,650/- per cent by the Land Acquisition Officer. The fact that the lands in the two villages Voyalanallur an Chockanallur were located in the same survey number and that they form part of the same revenue village was found by the Tribunal as an important fact to be taken note of. Nevertheless, the Tribunal did not go by the rate of Rs.31,650/- per cent fixed under Ex.C6 for the land in Chockanallur Village. On the contrary, the Tribunal took note of Ex.C9, a sale deed dated 11.9.1998, where the market value was indicated as Rs.21,800/- per cent. This actually corroborated the value arrived at under Ex.C6.

13. Today, the value arrived at in Ex.C6, has been reduced by this Court by a judgment dated 23.01.2013 in A.S.No.224 of 2011 to Rs.23,000/- per cent. Therefore, we are of the considered view that the rate of Rs.22,000/- per cent fixed by the Tribunal in the

judgment under appeal, is even lesser than the amount fixed by this Court in A.S.No.224 of 2011. Hence, we see no reason to interfere with the award of the Tribunal. Therefore, the appeals are dismissed. No costs. Consequently, connected M.Ps. are closed. The learned Additional Government Pleader is entitled to separate fees.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

kpl
To
1. The Member Secretary, Chennai Metropolitan Development Authority
Egmore, Chennai 600 008.
2. The Additional District Court, FTC 2, Poonamallee.

Copy to:
The Section Officer, V.R.Section, High Court, Madras.

2 cc to Mr.R.Subramanian , Advocate Sr.No.41424 & 41425
1 cc to Government Pleader.Sr.No.41440

A.S.Nos.54 & 55 of 2012

ksj(co)
pmk.31.8.2015