

In the High Court of Judicature at Madras

Dated : 07.9.2015

Coram :

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

A.S.No.833 of 2009 & Cross Objection No.92 of 2015

The Special Tahsildar (LA),
Unit-IV, C.M.D.A., Egmore,
Chennai-8 now office at
Koyambedu, Chennai-92.

...Appellant/Referring Officer
in AS & R1 in Cross Obj.

Vs

1.S.Venkatesan

...1st Respondent/Claimant in
AS & Cross Objector

2.The Member Secretary, CMDA,
Egmore, Chennai-8 now office
at Koyambedu, Chennai-92.

...2nd Respondent/Beneficiary
in both AS & Cross Obj.

APPEAL under Section 54 of the Land Acquisition Act, 1894
and Cross Objection under Order XLI Rule 22 of the Civil
Procedure Code against the judgment and decree dated 25.3.2009
in L.A.O.P. No.13 of 2002 on the file of the Additional District
and Sessions Court, FTC-1, Poonamallee.

For Appellant in AS & R1
in Cross Objection : Mr.P.Gunasekaran, AGP (AS)
For Respondent-1 in AS &
Cross Objector : Mr.R.Subramanian

COMMON JUDGMENT

(JUDGMENT WAS DELIVERED BY V.RAMASUBRAMANIAN,J)

The main appeal is filed by the Special Tahsildar, Land
Acquisition, challenging the enhancement of compensation granted
by the Land Acquisition Tribunal.

2. Heard Mr.P.Gunasekaran, learned Additional Government
Pleader for the appellant and Mr.R.Subramanian, learned counsel
appearing for the respondent - land owner.

3. By a Notification published on 26.2.1999 under Section 4
(1) of the Land Acquisition Act, 1894, the land of an extent of

about 15 acres and 12 cents in Amudurmedu Village, Poonamallee Taluk, was sought to be acquired for the purpose of formation of an outer ring road at the instance of the Chennai Metropolitan Development Authority. The Land Acquisition Officer passed an award in Award No.2/2000 dated 15.12.2000, fixing the compensation at Rs.750/- per cent.

4. On a reference under Section 18, the Tribunal passed an award on 25.3.2009 in L.A.O.P.No.13 of 2002 enhancing the compensation to Rs.9,665/- per cent. Aggrieved by the said award, the Referring Officer is on appeal and the land owner is on cross objections.

5. The Land Acquisition Officer took note of 13 sale transactions that had taken place during the period from 26.2.1996 to 25.2.1999. Out of those data sales, the Land Acquisition Officer took the sale deed dated 23.10.1996, under which, 48 cents of land had been sold for Rs.32,250/-. The other sale deeds were rejected either on the ground that the lands were of different types or on the ground that they were of boosted value.

6. Before the Tribunal, the land owner examined himself as C.W.1 and marked four documents as Ex.C.1 to Ex.C.4. The Referring Officer was examined as R.W.1 and no documents were marked on his side.

7. The Tribunal found that under Ex.C.1 dated 6.10.1997, a land in Amudurmedu Village itself had been sold for a consideration of Rs.4,839/- per cent. Under Ex.C.3 and Ex.C.4, certain lands in Karunakarachery village, which is a neighboring village, had been sold respectively for Rs.16,831/- per cent and Rs.12,727/- per cent. The Land Acquisition Officer took into consideration all the three sale deeds namely Ex.C.1, Ex.C.3 and Ex.C.4, worked out the average of all the three sale deeds and arrived at the compensation at Rs.9,665/- per cent. But, as rightly pointed out by the learned counsel for the cross objector - claimant, it is repeatedly pointed out by the Supreme Court that when several exemplar sales are brought to the notice of the court, the highest of the same will have to be taken into account. Therefore, the Tribunal was wrong in taking the average of the values reflected in the three sale deeds.

8. Once it is found that as per the law laid down by the Supreme Court, the highest value is to be taken into account, it is clear that the Tribunal ought to have gone by Ex.C.3 where the land had been sold for Rs.16,831/- per cent.

9. The next question that would arise for consideration is as to whether the market value reflected in a sale deed relating to a house site could be taken note of or not.

10. But, we have already pointed out in connected appeals that the lands acquired for the purpose of formation of the very same outer ring road, were in villages, which formed part of the urban agglomeration of Chennai on the peripheries of the city. In respect of Thandarai village, which is one of the villages from which lands had been acquired, a Division Bench of this Court fixed compensation at Rs.34,500/- per cent. In respect of the lands in Vayalanallur Village, which were acquired for the very same purpose under the very same notification, we confirmed the award of the Tribunal in A.S. Nos.54 and 55 of 2012 dated 10.8.2015 fixing the compensation at Rs.22,000/- per cent. Therefore, the value reflected in Ex.C.3 cannot be neglected in view of the fact that the land is in a village in Poonamallee Taluk, which is part of the urban agglomeration of Chennai where several colleges, industries, residential localities have already developed. Moreover, the land has the potential of developing into an area forming part of the metropolitan city. The land value in the peripheries had increased over the years manifold.

11. The Notification under Section 4(1) was published on 26.2.1999. The date of the sale under Ex.C.3 was 18.11.1997. If the market value as reflected in a sale deed executed 15 months before the date of the Notification under Section 4(1) was Rs.16,831/- per cent, then the land owner is justified in expecting an appreciation of 15%. If 15% appreciation is allowed, the value would come to Rs.19,986/- per cent, which could be rounded off to Rs.20,000/- per cent.

12. On the question as to whether there should be any deduction towards development charges, the Supreme Court has already clarified it in Mehrawal Khewaji Trust (Regd.), Faridkot & Others Vs. State of Punjab & Others [2012 (4) LW 109]. Therefore, we are of the considered view that the appeal deserves to be dismissed and the cross objection requires to be allowed.

13. Accordingly, the appeal is dismissed. The cross objection is allowed and the market rate is fixed at Rs.20,000/- per cent. The land owner will be entitled to all other benefits other than solatium, interest, etc., as per the award of the Tribunal. The Referring Officer is directed to calculate it and deposit the balance amount, after adjusting the amount already deposited, within a period of 12 weeks. The Additional Government Pleader is entitled to separate fees. No costs.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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The Additional District and Sessions Court, FTC-1, Poonamallee.

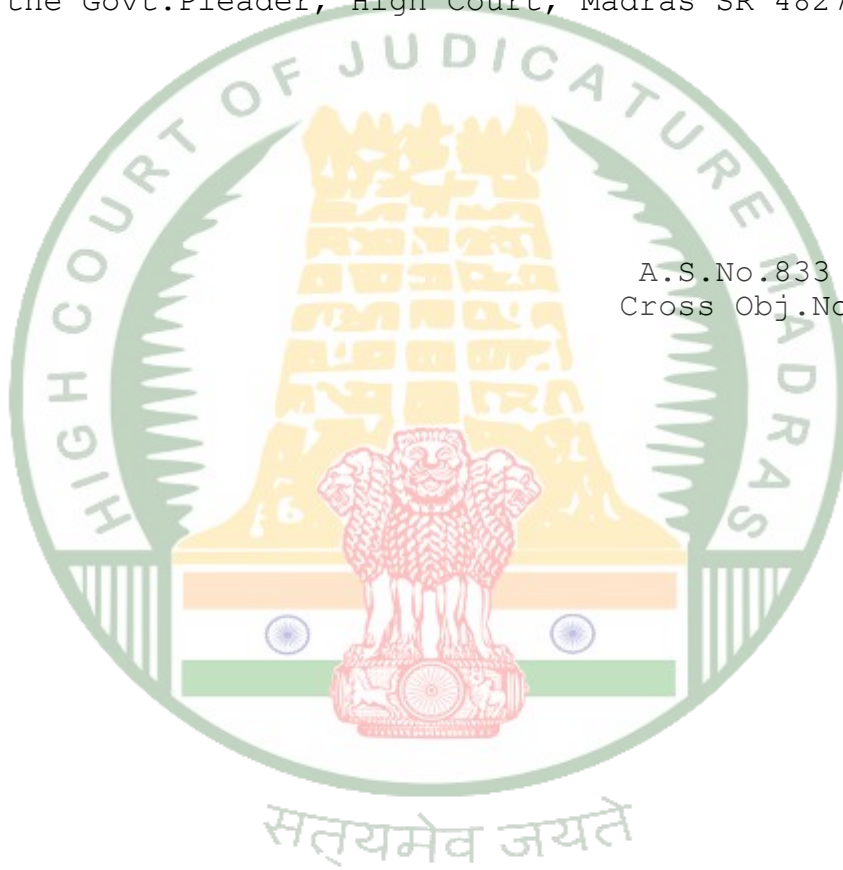
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The Section Officer,
V.R.Section, High Court,
Madras.

+ 1 cc to Mr.R.Subramanian, Advocate SR 48221

+ 1 cc to the Govt.Pleader, High Court, Madras SR 48274

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