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.839 to 855 of 2012

A.S.No.839 of 2012

The Special Tahsildar (L.A)
Unit IV, Outer Ring Road Scheme
Chennai Metropolitan Development Authority
Egmore, Chennai 8
Now at Koyambedu Wholesale Market Complex
Chennai 92.
..Appellant/Referring Officer in All the Appeals

Vs.

Deenadayalu Naidu ..Respondent/Claimant in A.S.839/2012
B.Udayakumar ..1st Respondent/Claimant in A.S.840/12
K.S.Ramachandran ..1st Respondent/Claimant in A.S.841/12
Lakshmi Ammal ..1st Respondent/Claimant in A.S.842/12
Mohanan ..1st Respondent/Claimant in A.S.843/12
David Robertson ..1st Respondent/Claimant in A.S.844/12
Sivathanu ..1st Respondent/Claimant in A.S.845/12
Jayasingh ..1st Respondent/Claimant in A.S.846/12
Kuppabai ..1st Respondent/Claimant in A.S.847/12
Rajaram ..1st Respondent/Claimant in A.S.848/12
Jayakumar Singh ..1st Respondent/Claimant in A.S.849/12
K.Murugesan ..1st Respondent/Claimant in A.S.850/12
Govindarajulu Naidu ..1st Respondent/Claimant in A.S.851/12
Ravi Christopher ..1st Respondent/Claimant in A.S.852/12
N.Duraimani ..1st Respondent/Claimant in A.S.853/12
Shike Ibrahim ..1st Respondent/Claimant in A.S.854/12
M.Meenakshi ..1st Respondent/Claimant in A.S.855/12

2. The Member Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai 9.
..2nd Respondent in All the Appeals

Appeals under Section 54 of the Land Acquisition Act against the order dated 22.7.2011 in LAOP No.13 of 2003 LAOP.16/03, LAOP.18/03, LAOP.20/03, LAOP.70/03, LAOP.71/03, LAOP.72/03, LAOP.74/03, LAOP.75/03, LAOP.79/03, LAOP.77/03, LAOP.78/03, LAOP.80/03, LAOP.84/03, LAOP.85/03, LAOP.86/03, LAOP.409/03, on the file of Additional District Judge, FTC I, at Poonamallee.

For Appellant : Mr.P.Gunasekaran,
ADDL.GOVT.PLEADER(AS)
For Respondent-1 : Mr.R.Chellamuthu
For Respondent-2 : Mr.C.Johnson

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 a batch of about 17 original petitions, enhancing the compensation payable for the lands acquired.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellants, Mr.R.Chellamuthu, learned counsel for the claimants and Mr.C.Johnson, learned counsel appearing for the requisitioning body.

3. The land of a total extent of about 8.23.5 hectares situate in Nemilichery Village, Poonamallee Taluk, Thiruvallur District, was acquired for the purpose of formation of an Outer Ring Road by the Chennai Metropolitan Development Authority, which is the requisitioning body. The notification under Section 4(1) was issued on 05.01.2000. The Land Acquisition Officer passed an award in Award No.1 of 2002 dated 31.01.2002, fixing the compensation payable at Rs.670/- per cent.

4. On references made to the Tribunal under Section 18, the Additional District Court (FTC I), Poonamallee, passed a common award on 22.7.2011 in LAOP Nos.13, 16, 18, 20, 70 to 72, 74, 75, 77 to 80 and 84 to 86 and 409 of 2003, enhancing the compensation to Rs.43,560/- per cent. Aggrieved by such enhancement, the Special Tahsildar has come up with the above appeals.

5. It is seen from the award passed by the Land Acquisition Officer that he took note of 387 data sales that had taken place during the period from 29.01.1997 to 28.02.2000. Out of these 387 transactions, the Land Acquisition Officer took into account

only one transaction, namely the sale in Survey No.143/1 of a land of an extent of 1.03 acres, sold under document bearing No.3726 dated 17.8.2009. The sale had been made for a consideration of Rs.69,000/- and hence, the Land Acquisition Officer came to the conclusion that the market rate could be fixed at Rs.670/- per cent.

6. In particular, the Land Acquisition Officer discarded 377 transactions on the ground that all of them related to house sites. But, he obviously overlooked the fact the very lands acquired from the respondents herein were also house sites of the extents ranging from about 2½ cents to 7½ cents.

7. Before the Tribunal, one of the owners was examined as CW1. He filed the certified copy of a sale deed dated 16.9.1998 as Ex.C1. The Referring Officer was examined as RW1 and she filed only the copy of the award as Ex.R1.

8. The Tribunal found that under Ex.C1 dated 16.9.1998, the land of an extent of about 2586 sq.ft. had been sold for Rs.2,45,000/-, together with a hut. The total sale consideration for the land as well as the hut was mentioned in the document as Rs.3,30,164/-. Therefore, the Tribunal arrived at the market value per sq.ft. as Rs.119.37.

9. The market value reflected as per Ex.C1 was also corroborated by the sale transaction at serial No.329 among the 387 data sales taken into consideration by the Land Acquisition Officer. Under the sale deed indicated in serial No.329, executed on 03.8.1999, the land of an extent of about 1090 sq.ft. (2.05 cent) in Survey No.197/2 had been sold for a consideration of Rs.1,26,350/-. In other words, the market rate reflected by this document was Rs.115.91 per sq.ft. Therefore, the Tribunal fixed the compensation at Rs.100/- per sq.ft. which worked out to Rs.43,560/- per cent.

10. The contention of the appellant is that when a vast extent of about 8.23.5 hectares had been acquired, it was not open to the Tribunal to take note of the sale of very small extents of land for arriving at the market value. The learned Additional Government Pleader contended that such fixation was completely contrary to the law laid down by the Supreme Court.

11. We have carefully considered the above submissions.

12. It is true that on first principles, a Court cannot take into account the values indicated in sale deeds relating to sale of very small extents of lands. But, this first principle is not without its exceptions.

13. 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.

14. 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 Mehrawal Khewaji Trust v. State of Punjab [2012 4 LW 109].

15. The total number of transactions that had taken place during the period of three years immediately preceding the notification under Section 4(1) was about 387. Out of those 387 transactions, 377 related to house sites. This was an indication that what was acquired was not wet or dry land, but actually house sites.

16. In her deposition as RW1, the Referring Officer categorically admitted that even the lands that were acquired from these respondents were actually house sites plots of small extents ranging around 5½ cents. She also agreed that these lands are not cultivable lands. The Officer further admitted that these plots of land were situate near the Highways, where there were bus facilities. There was a College by name Jaya College nearby and there were also industries. There were two railway stations, one at Pattabhiram and another at Nemilichery.

17. More than all that, there were residential houses constructed in some of the lands acquired.

18. The following tabulation would show the extent of land acquired from each one of the respondents.

A.S.No.	LAOP No.	Extent of land
839/12	13/03	3½ cents
840/12	16/03	3½ cents
841/12	18/03	3½ cents
842/12	20/03	6 cents
843/12	70/03	7½ cents
844/12	71/03	7½ cents
845/12	72/03	6 cents
846/12	74/03	5 cents
847/12	75/03	5 cents
848/12	77/03	5 cents
849/12	78/03	6 cents
850/12	79/03	5 cents
851/12	80/03	5 cents
852/12	84/03	3½ cents
853/12	85/03	5 cents
854/12	86/03	5 cents
855/12	409/03	5 cents

19. Therefore, the judgment and decree of the Court below do not call for any interference. Hence, these appeals are dismissed. No costs. Consequently, connected M.Ps. are closed. The learned Additional Government Pleader is entitled to separate fees.

kpl

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Addl.District Judge,
Fast Track Court No.I, Poonamallee.

+ 17 ccs to Addl.Govt.Pleader (AS) Sr.41442/16
+ 17 ccs to Mr.R.Chellamuthu, Advocate Sr 41679/16

KR/7/6/16