

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 26.8.2015

Delivered on: 30.10.2015

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE T.MATHIVANAN

A.S.Nos.957 of 2012 and 518 of 2013
and
Cross Objection Nos.33 of 2013 and 123 of 2013
and
M.P.No.3 of 2015 and Connected M.Ps.

1.Union of India represented by
Secretary to Government (Revenue)
Pondicherry.

2.The Deputy Collector (Revenue) (North)-
cum-Land Acquisition Officer
Puducherry.

... Appellants in both the appeals and the
respondents in both the cross
objections/Respondents.

Versus

1.V.Suganya Venugopal
2.V.Guhan
3.Porpavai

...Respondents in A.S.No.957 of 2012 and
cross objectors in Cross Objection No.33
of 2013 /Petitioners.

V.Velmurugan

..Respondent in A.S.No.518 of 2013 and
Cross objector in Cross Objection
No.123 of 2013

Prayer in A.S.No.957 of 2012: First Appeal is filed under
Section 54 of the Land Acquisition Act to set aside the award,
dated 24.6.2011 and made in L.A.O.P.No.11 of 2005 on the file of
the learned II Additional District Judge, Pondicherry.

Prayer in A.S.No.518 of 2013: First Appeal is filed under Section 54 of the Land Acquisition Act to set aside the award, dated 24.6.2011 and made in L.A.O.P.No.36 of 2010 on the file of the learned II Additional District Judge, Pondicherry.

For Appellants in : Mrs.N. Mala
both the appeals :
and the respondents : Additional Government Pleader
in Cross Objections : Puducherry.

For Respondents in both :
the appeals and Cross : Mr.T.P. Manoharan
Objectors in Cross :
Objections :

COMMON JUDGMENT

(T. MATHIVANAN, J.)

A.S.No.957 of 2012
and
A.S.No.518 of 2013

Invoking the provisions of Section 54 of the Land Acquisition Act, 1894, the appellants, viz., Union of India represented by the Secretary to Government (Revenue) Puducherry and the Deputy Collector (Revenue) North-cum-Land Acquisition Officer, Puducherry, have preferred these two appeals challenging the correctness of the order, dated 24.6.2011 and made in L.A.O.P.No.11 of 2005 and 36 of 2010 respectively on the file of the referral court, (II Additional District Judge, Puducherry).

Cross Objection No.33 of 2013 in A.S.No.957 of 2012
and

Cross Objection No.123 of 2013 in A.S.No.518 of 2013

2.The claimants in the above land acquisition proceedings having been not satisfied with the compensation granted by the referral Court have preferred these cross objections seeking enhancement of compensation.

3.With the crucial issue involved in both the appeals as well as cross objections is common in nature, the appeals as well as the cross objections have been clubbed together, heard jointly and disposed of in this common judgment.

4. Heard Mrs.N.Mala, learned Additional Government Pleader (Puducherry) appearing for the appellants as well as the respondents in cross objections and Mr.T.P. Manoharan, learned counsel appearing for the respondents as well as the cross objectors.

5. It is manifested from the records that the appellants at the instance of the Commissioner, Oulgaret Municipality, Pondicherry, had initiated land acquisition proceedings to acquire the land comprised in R.S.Nos.68, 69/1, 69/2, 69/3, 69/4, 69/5, 70/1, 70/2, 70/3, 70/4, 71/1, 71/2 and 71/3 measuring an extent of 15-22-00 Hectares situated at Thattanchavady Village for the setting up of solid waste management process unit and truck terminal for Pondicherry/Oulgaret.

6. The landed property of the respondents/claimants in A.S.No.957 of 2012 (L.A.O.P.No.11 of 2005) measuring 4.49.28 Hectares as well as the landed property of the respondent/claimant in A.S.No.518 of 2013 (L.A.O.P.No.36 of 2010) measuring 01.44.98 Hectares situated at Thattanchavady Revenue Village were also included in the above said land acquisition proceedings.

7. A Notification under Section 4(1) of the Land Acquisition Act, 1894, (hereinafter it may be referred to as 'the Act, 1894') was published by the the second appellant/land acquisition officer on 25.1.2000, in the State Gazette No.4, which was approved by the Government vide G.O.Ms.No.2, Revenue Department, dated 7.1.2000.

8. An enquiry under Section 5(A) of the Act, 1894, was conducted by the then Deputy Collector (Land Acquisition) from 19.6.2000 to 23.6.2000. Subsequently, a draft declaration under Section 6 of the land acquisition was approved by the Government vide G.O.Ms.No.74, Revenue Department, dated 17.11.2000.

9. In order to arrive at the market value of the land, the statistics of sales that took place for the period of a year preceding the date of 4(1) Notification, i.e., from 25.1.1999 to 24.1.2000 was collected and accordingly, 636 data sales were collected.

10. Among 636 sales, 71 sales were rejected on the ground that they were effected with structures, 474 sales were rejected on the ground that they were far away from the land under acquisition, 15 sales were rejected on the ground that those sales were composite sales involved more than two revenue survey numbers and 3 sales were rejected on the ground that the area transacted is plotted area, which is

already identified with meagre extent and therefore, it could not be taken for pricing vast area as under acquisition and they were also effected with exorbitant price.

11.After the rejection of the above transactions, the land acquisition officer had retained 73 sales, of which item Nos.559 and 560 were selected as they were fetched highest value of Rs.32,432/-.

12.Accordingly, the land acquisition officer had assessed the market value of the acquired land at Rs.32,432/- per Are, i.e. At Rs.30 per sq.ft., which was compared with the GLR value obtained from the Deputy Collector (Revenue) Puducherry, as shown in the tabular column specified below:-

SL.No.	R.S.No.	GLR Value Rate Per Are	Assessed value Rate Per Are	Market Value Rate per Are
1	68 & 69	32,280	32,432	32,432
2	70	16,140	32,432	32,432
3	71	10,760	32,432	32,432

13.The land acquisition officer had accordingly passed an award, dated 10.9.2001 in his award proceedings No.7 of 2002.

14.Admittedly, the land acquisition officer for the purpose of assessing the market value of the acquired land comprised in R.S.No.68 in Thattanchavady Revenue Village has mainly based on the following two documents specified in Serial No.559 and 560.

15.The sale deed specified in Serial No.559 under document No.5578 of 1989 was registered on 15.12.1999. The transaction was effected between Tmt. Panchali and Anbunathan. The property sold under this document is comprised in R.S.No.69/2 and 69/4 situated at Thattanchavady Village.

16.The sale price of the property under this document was at Rs.32,432/- per Are. Similarly, the property sold under document No.5578 of 1999, dated 15.12.1999 is comprised in R.S.No.69/2. This document finds a place in Serial No.560.

17.The sale transaction under this document seems to have been effected between Tmt.Vasanthamalai and others on the one hand and one Babu on the other. This property is also situated at Thattanchavady Village.

18.The property sold under this document is also comprised in Serial No.69/2 for Rs.32,432/- per Are.

19.In this connection, the Tribunal, in paragraph No.16 of its award has stated that from the sale statistics, which was marked as Ex.R.4, it could be seen that 638 sales were gathered by the land acquisition officer and that he had taken the sale item Nos.559 and 560 as data sale deeds and as per those sale deeds, the value of Rs.32,432/- was fixed by the land acquisition officer.

20.But as per Ex.P.8 sale deed, dated 25.10.1999, i.e., one year prior to the date of acquisition, the sale price was fixed at Rs.83/- per sq.ft.

21.The Tribunal has also pointed out that this factual position had not been taken into consideration by the land acquisition officer during the relevant point of time. The land acquisition Tribunal, heavily banking on Exs.P2 to P.10, has determined the market value of the acquired land at Rs.90/- per sq.ft., i.e., at Rs.97,200 per Are and according to the land acquisition Tribunal this price would be the reasonable one which could be fixed for the acquired lands.

22.In so far as Ex.P.11 is concerned, the Tribunal has indicated that on perusal of Ex.P.11 it would go to show that the property comprised in R.S.No.86/3F/1C was sold at the rate of Rs.147/- per sq.ft. on 5.2.2001.

23.In this case, the property was acquired by the land acquisition officer during the year 2000, i.e., one year prior to the date of sale of the property comprised in R.S.No.86/3F/1C as specified under Ex.P.11 sale deed, dated 5.2.2001.

24.While the appellants, viz., Union of India represented by the Secretary to Government (Revenue) (North) and the Land Acquisition Officer filing their appeal to set aside the award of the Tribunal, dated 24.6.2011, the respondents being the claimants have filed their respective cross objections to enhance the compensation.

25.On perusal of the cross objections filed by the respondents/claimants, we understand that they are claiming enhancement of compensation to the tune of Rs.1,61,450/- per Are, i.e., at the rate of Rs.150 per sq.ft. based on the sale deeds under Exs.P.3 to P.8.

26.Ex.P.3 sale deed seems to have been registered under document No.5053 of 1998, dated 10.12.1998. The property sold under this document is comprised in R.S.No.68. Totally an extent of 3600 sq.ft. seems to have been sold for Rs.3,24,000/-, i.e., at the rate of Rs.90 per sq.ft.

27.On perusal of Ex.P.4, dated 10.12.1998, the property measuring an extent of 3600 sq.ft. comprised in R.S.No.68 seems to have been sold at the rate of Rs.60 per sq.ft.

28.Ex.P.5 sale deed, dated 10.12.1998, would reveal that the property measuring 3600 sq.ft. has been sold at Rs.2,16,000/-, i.e., at the rate of Rs.60 per sq.ft.

29.Ex.P.6 sale deed, dated 15.5.1999 would reveal that the property comprised in R.S.No.68 measuring 1800 sq.ft. has been sold at Rs.1,24,500/-, i.e., at the rate of Rs.70 per sq.ft.

30.Ex.P.7 sale deed, dated 31.12.1999 reveals that the property measuring 3600 sq.ft. comprised in R.S.No.68 has been sold at Rs.78 per sq.ft. and as per the sale deed under Ex.P.8, dated 25.10.1999, the property measuring 1200 sq.ft. comprised in R.S.No.71/1 has been sold at Rs.1,00,000/-, i.e., at the rate of Rs.83 per sq.ft.

31.As per Ex.P.9, dated 7.12.1999, the property comprised in S.Nos.111, 114, 118, 119, 116, 106, 107 and 141 seems to have been sold for Rs.8,60,000/-, i.e., at the rate of Rs.123 per sq.ft.

32.Similarly, as per Ex.P.10, dated 20.12.1999, the property measuring 12590 sq.ft. comprised in various survey numbers seems to have been sold at Rs. 22,75,000/-, i.e., at the rate of Rs.181 per sq.ft.

33.Ex.P.11 sale deed, dated 5.2.1999 would go to show that the property comprised in R.S.No.86 measuring 788 sq.ft. has been sold at Rs.1,15,000/-, i.e., at the rate of Rs.146 per sq.ft.

34.In this connection, the learned Government Pleader for Pondicherry has submitted that the reference court had not given any valid reason for awarding enhancement of compensation excepting relying upon the documents under Exs.P.3 to P.10.

35. She has also argued that the sale transactions under Exs.P.3 to P.5, dated 10.12.1998 were effected more than one year prior to 4(1) Notification, dated 25.1.2000.

36. She has also argued that the sale deeds under Ex.P.6 and P.7, dated 15.5.1999 and 31.12.1999 respectively, were the documents of the claimants themselves and hence, she would submit that the referral court ought not to have been relied upon those two documents.

37. On coming to Ex.P.8, the learned Government Pleader has argued that the sale deed under Ex.P.8, dated 25.10.1989 was effected in respect of smaller extent of 1200 sq.ft. and hence, this could not be taken into consideration for fixing the market value of larger extent of land.

38. Similarly, she has also argued that the sale deed under Ex.P.9 and P.10, dated 7.12.1999 and 20.12.1999 were effected in respect of the vacant house site along with the super structure comprised in S.No.111 and this document also ought not to have been relied upon by the referral court for fixing the market value of the acquired land.

39. According to the learned Government Pleader, the land comprised in S.No.71, which was sold under Ex.P.8, dated 25.10.1999 was located far away from the acquired land and therefore, the reference court had committed serious error in considering the sale which had taken place in respect of the land located far away from the acquired land.

40. She has also added that the land acquisition officer had correctly selected the documents specified under Serial No.559 and 560 as data sale deeds and correctly fixed the market value of the land at Rs.30 sq.ft. and in this connection, she has also maintained that the referral court has committed a serious error in rejecting the data sale deeds and therefore, she has urged this Court to set aside the award of the referral court, dated 24.6.2011.

41. On the other hand, Mr.T.P. Manoharan, learned counsel appearing for the respondents/claimants/cross objectors, while advancing his arguments has made reference to Ex.P.7 and Ex.P.8, dated 31.12.1999 and 25.10.1999 respectively.

42. In this regard, he has maintained that the sale deed, dated 25.10.1999 in respect of the property comprised in S.No.71 had been marked by the owners of the land as Ex.P.7 in L.A.O.P.No.11 of 2005 (A.S.No.957 of 2012) and as Ex.P.8 in L.A.O.P.No.36 of 2000 (A.S.No.518 of 2013).

43.He has also submitted that the land of the respondents/claimants comprised in R.S.NO.68 was situated within the Puducherry Town Limit and adjoining to the junction of two roads, i.e., Puducherry-Manaveli road and 80 feet Tindivanam By-pass road with a wide road frontage of 1020 feet.

44.While advancing his arguments, he has also invited our attention to Ex.R3 topographic sketch and would submit that the land comprised in R.S.No.71 was situated at the backside of the land comprised in R.S.No.68 that too, after two other larger extents of the lands comprised in S.No.69 and 70 in between as the fourth land from the road, i.e., at the distance of 400 metres from the road and without any access.

45.He has also adverted to that the land comprised in R.S.No.68 owned by the respondents was situated at the front side of the road and that the land comprised in R.S.No.71 was situated on its backside as the fourth land at a distance of 400 metres from the road without any access and hence, he has urged that the principle of "belting system" as laid down by the Apex Court as well as the High Court had to be applied for the determination of the market value of the land bearing R.S.No.68 based on the sale price of the land comprised in R.S.No.71 paid under Exs.P.7 and P.8 sale deeds, dated 25.10.1999 at Rs.83.33 per sq.ft.

46.He has continued further that while fixing the value of the land as afore stated, the market value of the land comprised in R.S.No.68 would be Rs.158.33 per sq.ft. as the sale price of the land bearing R.S.No.71 had been increased by 30% i.e., at Rs.90%.

47.He has also pointed out that even though sufficient materials were available before the referral court for determining the market value of the land comprised in S.No.68 based on the sale price of the land comprised in R.S.No.71 under Ex.P.7 and P.8, dated 25.10.1999, the land acquisition Tribunal had failed to consider the location of the land comprised in R.S.No.71 on its back side as a fourth land from the road without any access and hence, he has urged to apply the principle of "guesstimation" as laid down by the Apex Court in the decision reported in 2011 (6) SCC 47.

48.He would further submit that on application of this principle based on the land value of Rs.83.33 per sq.ft. as in the case of Ex.P.7 and P.8, dated 25.10.1999, comprised in S.No.71 the market value of the land comprised in R.S.No.68 would have been increased atleast by three

times, i.e. at Rs.249.99 per sq.ft. and that the Tribunal, had miserably failed to consider this aspect and also failed to enhance the compensation atleast at Rs.150 per sq.ft.

49.It is to be seen that the land acquisition officer has assigned the reason for having selected the sale deeds under sale item Nos.559 and 560 in which the property comprised in R.S.Nos.69/2, 4 and 69/2 are involved, in the following manner.

50.Among the retained sales, sale item Nos.559 and 560 had fetched the highest value of Rs.32,432/- per Are. Since the site is already located at a higher elevation no developmental charges may be deducted. Hence, the value is assessed at Rs.32,432/- per Are and this value has also been compared with the GLR value obtained from the Deputy Collector (Revenue), Pondicherry as stated in the opening paragraphs.

51.On coming to the evidences both oral and documentary, the second claimant, in L.A.O.P.No.11 of 2005, who was examined as P.W.1 in both the land acquisition proceedings, i.e., L.A.O.P.No.11 of 2005 and 36 of 2010, has deposed that the acquired property was higher in level than the property situated on the east comprised in R.S.Nos.76 to 85, the level would be higher by not less than 15 feet and that the acquired property was eminently fit for the construction of buildings, like factories and also commercial complexes.

52.P.W.1 has continued to say that the acquired property was situated at the immediate north of the industrial estate, where there were number of factories and commercial complexes. On the immediate south east of the acquired land, several layouts, namely, Priyadharsini Nagar, Sarangiya Nagar and Ram Nagar were located and that there was also a gas station as shown in the plan, which was marked as Ex.P.1. On the immediate north east, there was a lay out called Kamaraj Nagar and a dental college was located by the side of the Kamaraj Nagar.

53.He has also deposed that fully constructed houses had come up in all the lay outs and that the police quarters was located on the east of the acquired land. It is also revealed from his evidence that the renowned GIPMER hospital is located within a kilometre distance from the acquired land.

54. Apart from this, several quarters for the employees of All India Radio Broadcasting station and staff quarters for the police are also located. The quarters pertaining to doctors and nurses are located at a distance of 500 metres. That apart, TB Sanatorium is also located at a distance of 500 metres on the eastern side of the acquired land.

55. We have also examined the plan, which was marked under Ex.P.1 thoroughly. This fact has been fairly admitted by R.W.1 in his cross examination.

56. It may be more significant to note here that the properties comprised in R.S.Nos.69, 70 and 71 are located immediately on the northern side of the property of the claimants comprised in R.S.No.68. This fact has also been admitted by R.W.1.

57. In this connection, what he would depose is that the property comprised in R.S.No.68 alone was the access to reach the property comprised in R.S.Nos.69, 70 and 71. It may also be relevant to note here that the properties comprised in R.S.Nos.69, 70 and 71 were also acquired and form part of the same award, viz., award No.7 of 2002, dated 26.12.2002.

58. While assessing the market value of the property comprised in R.S.No.71, the guideline value was increased three times and assessed in respect of the property comprised in R.S.No.71.

59. Similarly, the Government Guideline value was increased two times in respect of the property comprised in R.S.No.70 while assessing the market value.

60. In so far as the property comprised in R.S.Nos.68 and 69 are concerned, the actual Government Guideline value was taken into account to determine its market value and that it has not been increased as in the case of R.S.No.70 and 71.

61. As stated by the claimants, R.W.1 has also admitted that the acquired land is located on the higher level. Ex.R.4 is the attested copy of the sale statistics.

62. In this regard, R.W.1 has deposed that items Nos.576 and 596 were comprised in the same survey numbers. He has also specifically admitted that several industrial estates and housing constructions were located on the southern side of the acquired land comprised in R.S.No.68.

63.In Ex.R.4, sale statistics, according to R.W.1, the market value was exaggerated rather than the government value in respect of the item Nos.194, 494 and 587. The land acquisition tribunal has also considered the oral evidences given by P.W.1 as well as R.W.1.

64.The Tribunal has also taken into consideration of the several decisions of the Apex Court cited on behalf of the respondents/claimants.

65.As it is revealed from the evidences of P.W.1 as well as R.W.1, we are of the view that the acquired land is situated in prime location surrounded by industrial and residential areas. Colleges and hospitals are also located very nearer to the acquired land.

66.It is also established that the acquired land has the potential value as admitted by R.W.1. The properties comprised in R.S.No.71 does not have any access, but it could be reached only through the acquired land comprised in R.S.No.68.

67.It is seen that the land comprised in R.S.No.71 was sold at the rate of Rs.83/- per sq.ft. When such being the case, the land acquisition Tribunal has stated in its award that obviously, the property comprised in R.S.No.68 would automatically get the value of more than Rs.83 per sq.ft.

68.Mr.T.P. Manoharan, has invited our attention to the candid admission made by R.W.1 and in this connection, he would submit that on comparing with the GLR value assessed in respect of other properties comprised in R.S.Nos.70 and 71, the market value in respect of the property comprised in R.S.N.68 should have been fixed four times higher than the GLR value, because this property was located proximity to the main road.

69.He has also maintained that the award officer ought not to have assessed the market value of the property comprised in R.S.No.68 on par with the market value assessed in respect of the property comprised in R.S.Nos.69, 70 and 71.

70.However, the learned Government Pleader for Pondicherry has submitted that the land acquisition officer had fixed correct market value while assessing the market value of the land at the time of land acquisition and it was duly compared with the GLR value obtained from the Deputy Collector, Pondicherry, and accordingly, fixed the market value at Rs.32,432/- per Are and hence, she has urged to set

aside the award passed by the Tribunal after maintaining the market value fixed by the land acquisition officer at the rate of Rs.30 per sq.ft.

71.The learned Government Pleader while advancing her arguments, has placed reliance upon the following decisions:-

a. The Dollar Company, Madras vs. Collector of Madras (AIR 1975 SC 1670(1)).

b. Administrator General of West Bengal vs. Collector, Varanasi (AIR 1988 SC 943).

c. Iyasamy and another vs. Special Tahsildar, Land Acquisition (2011) 1 MLJ 139 (SC).

d. Pitambar Hemlal Badgujar (Dead) by Lrs. and others vs. Sub Divisional Officer, Dhule and another ((1996) 7 SCC 554).

72.In Dollar Company's case, first cited supra, a Division Bench of the Apex Court has spoken through Hon'ble Mr. Justice V.R.Krishna Iyer as under:-

"In an appeal from an award granting compensation the Supreme Court will not interfere unless there is something to show not merely that on the balance of evidence it is possible to reach a different conclusion but that the judgment cannot be supported by reason of a wrong application of principle or because some important point affecting valuation has been overlooked or misapplied. Moreover, there is a prudent condition to which the appellate power, generally speaking, is subject. A court of appeal interfere not when the judgment under attack is not right but only when it is shown to be wrong."

73.Further, His Lordship has held that, "Compensation for compulsory acquisition, as governed by Section 23, gives high priority to the market value of the land at the date of the publication of the notification under Section 4, sub-section (1). the main criterion to determine the market value is what a willing purchaser would pay a willing vendor. An actual transaction with respect to the specific land of recent date is a guidebook that courts may not neglect when called upon to fix the precise compensation. The best evidence of the value of property is the sale of the very property to which the claimant is a party. If the sale is of recent date, then all that need normally be proved is that the sale was between a willing purchaser and a willing seller, that there has not been any appreciable rise or

fall since and that nothing has been done on the land during the short interval to raise its value. Price paid by the owner recently represents an expression of market value, as bona fide evidence of value, subject to such matters as (a) the relationship of the parties; (b) the market conditions and the terms of sale and (c) the date of sale. It may not end the enquiry but goes a long way to solve the problem."

74.In

Administrator General's case, second cited supra, the Apex Court has held that, "prices fetched for lands similar to acquired land with similar advantages and potentialities at or about time of preliminary notification constitute best evidence."

75.Further, the Apex Court has held that, "the determination of market-value of a piece land with potentialities for urban use is an intricate exercise which calls for collection and collation of diverse economic criteria. The market-value of a piece of property, for purposes of [Section 23](#) of the Act, is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. The determination of market-value, as one author put it, is the prediction of an economic event. viz, the price- outcome of a hypothetical sale, expressed in terms of probabilities. Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual, and indeed the best, evidences of market- value. Other methods of valuation are resorted to if the evidence of sale of similar lands is not available. "

76.In [Iyasamy and another](#), cited third supra, the Apex Court in paragraph No.7 has observed as under:-

"The legal position in this regard has been reiterated by this court time and again. It was held in [Smt.Kausalya Devi Bogra and Ors. Vs. Land Acquisition Officer, Aurangabad & Anr.](#) reported at (1984) 2 SCC 324, (in paragraph 13) that: -

"Where large tracts of land are acquired, valuation in transaction in regard to smaller properties does not offer a proper guideline and therefore, cannot be taken a real basis for determining compensation. For determining the market value of a large property on the basis of a sale transaction for smaller property a deduction should be given."

Besides, in [Kasturi & Ors. v. State of Haryana](#) reported at (2003) 1 SCC 354 it was held that (in paragraph 7):-

"It is well settled that in respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area required for roads and other civic amenities to develop the land so as to make the plots for residential or commercial purposes."

77. In Pithambar Hemlal Badgujar's case, cited fourth supra, the Apex Court has observed in the following manner:-

"Determination of the compensation in respect of the lands acquired on the sq. ft. basis is an obvious illegal principle being adopted by the courts only to inflate the market value and no reasonable prudent purchaser would be willing to purchase the land on the sq. ft. basis when large extent of land is offered for sale. Same is the case when land is acquired for public purpose. The courts are required to consider sitting in the arm chair of the prudent purchaser acting in normal conditions prevailing in the open market, whether, when offered to purchase the land by a willing vendor, he would purchase the same in an open market. The Court on that touchstone should evaluate the market value."

78. On the other hand, Mr. T.P. Manoharan, in support of his submissions, has placed reliance upon the decision of the Apex Court in Sardar Jogendar Singh (Dead) by Lrs. vs. State of Uttar Pradesh and another ((2008) 17 SCC 133).

79. In the said decision, in paragraph No.11, the Apex Court has observed that, "this Court in a series of judgments taken judicial notice of the fact that there is a steady increase in the market value of lands and have adopted the procedure of increasing the market value in the relied-upon transaction, at a given rate per year."

80. In paragraph No.12, the Apex Court has made reference to the decision in ONGC Ltd., v. Rameshbhai Jivanbhai Patel ((2008) 14 SCC 745) and observed as under:-

"12.In General Manager, ONGC vs. Rameshbhai Jivanbhai Patel (Civil Appeal No.5192 of 2002 decided on 31.7.2008), this Court held that in regard to urban and semi-urban areas, in the absence of other acceptable evidence, a cumulative increase of 10% to 15% was permissible with reference to acquisitions in the 1990s. In the decades preceding 1990s, the quantum of increase was considered to be less than 10% per annum. This Court however observed that transactions beyond five years before the acquisition, should be considered with caution and may not always be a reliable guide."

81.In paragraph No.13, the Apex Court has observed that the general increase between 1969-1979 can be taken to be around 8-10% per annum.

82.Mr.T.P. Manoharan has also relied upon the decision of the Apex Court in Anjani Molu Dessai vs. State of Goa and another ((2010 13 SCC 710), wherein, Hon'ble Mr. Justice R.V. Raveendran, while speaking on behalf of the Division Bench has observed in paragraph No.20 as under:-

"20.The legal position is that even where there are several exemplars with reference to similar lands, usually the highest of the exemplars, which is a bona fide transaction, will be considered. Where however there are several sales of similar lands whose prices range in a narrow bandwidth, the average thereof can be taken, as representing the market price. But where the values disclosed in respect of two sales are markedly different, it can only lead to an inference that they are with reference to dissimilar lands or that the lower value sale is on account of under-valuation or other price depressing reasons. Consequently averaging can not be resorted to. We may refer to two decisions of this Court in this behalf."

83.The decision in Atma Singh (Dead) through LRs. and others vs. State of Haryana and another ((2008) 2 SCC 568) has also been relied upon by Mr.T. P. Manoharan in support of his submissions.

84.In this decision, paragraph Nos.4, 5, 14 and 15 are relevant. In this case, it is highlighted that the price fetched for small plots cannot form safe basis for valuation of large tracts of land. This principle had been followed in the decisions of the Apex Court in Basant Kumar vs. Union of

India ((1996) 11 SCC 542), K. Vasundara Devi v. Revenue Divisional Officer (LAO) ((1995) 5 SCC 426) and H.P. Housing Board vs. Bharat S. Negi ((2004) 2 SCC 184).

85.The reasons for applying the said principle has been laid down in paragraph 14 of the said decision cited supra, which reads as under:-

"The reasons given for the principle that price fetched for small plots cannot form safe basis for valuation of large tracks of land, according to cases referred to above, are that substantial area is used for development of sites like laying out roads, drains, sewers, water and electricity lines and other civic amenities. Expenses are also incurred in providing these basic amenities. That apart it takes considerable period in carving out the roads making sewers and drains and waiting for the purchasers. Meanwhile the invested money is blocked up and the return on the investment flows after a considerable period of time. In order to make up for the area of land which is used in providing civic amenities and the waiting period during which the capital of the entrepreneur gets locked up a deduction from 20% onward, depending upon the facts of each case, is made. "

86.Mr.T.P. Manoharan, has also placed reliance upon the decision in Maharunnisa and another vs. Assistant Commissioner and Land Acquisition Officer, Bijapur ((2009) 9 SCC 750).

87.In this case, the Apex Court has held that, " the appellants are entitled to compensation at enhanced market value though they had paid court fees on a lesser market value."

88.In C.R. Nagaraja Shetty vs. Special Land Acquisition Officer and Estate Officer and another ((2009) 11 SCC 75), which was also relied upon by Mr.T.P. Manoharan, the Apex Court has held that the land abutting national highway 15 km from Bangalore City Corporation Limit and was 15 km from Bangalore Bus Station, is deserved a higher rate than the value of nearby land which had been found to be Rs.62.5 per sq.ft. which was 25-30 k m from the said Bus station.

89.Mr.T.P. Manoharan, has also made reference to the decision in Trishala Jain and another vs. State of Uttaranchal and another ((2011) 6 Scc 47).

90. In this case, the Apex Court in paragraph Nos. 56 and 58 has observed as under:-

"More often than not, it is not possible to fix the compensation with exactitude or arithmetic accuracy. Depending on the facts and circumstances of the case, the court may have to take recourse to some guesswork while determining the fair market value of the land and the consequential amount of compensation that is required to be paid to the persons interested in the acquired land.

The concept of "guesswork" is not unknown to various fields of law. It has been applied in cases relating to insurance, taxation, compensation under the Motor Vehicles Act as well as under the Labour Laws."

91. We have carefully considered the submissions made by the learned Government Pleader for Pondicherry and Mr. T.P. Manoharan.

92. We have also carefully gone through the decisions cited on behalf of both sides with reference to the averments of grounds of appeal as well as the Cross Objections.

93. It is obvious to note here that the respondents/claimants in A.S.No.957 of 2012 have filed a petition in M.P.No.3 of 2015 filed under Order 41 Rule 27 of C.P.C. Seeking permission to produce the Letter bearing No.740/DC(R)N/REV/C2/GLR/2013, dated 4.4.2013 issued by the second respondent/land acquisition officer as additional document and to mark as Ex.P.11 on their side.

94. The averments of the affidavit filed in support of the petition would reveal that the land comprised in R.S.No.68 situated at Thattanchavady Revenue Village, Pondicherry, is measuring in total 05.94.26 Hectares, i.e., 14.72 acres. Out of the said extent, the petitioners have stated that they are the absolute owners of the land measuring 4.49.28 Hectares and their maternal uncle V. Velmurugan, who is the appellant in A.S.No.518 of 2013 and the claimant in L.A.O.P.No.36 of 2010, is the absolute owner of the land measuring 01.44.98 Hectares.

95. They have also stated that as evidenced by Ex.P.1 and Ex.R.3 Topo Sketch, their land comprised in R.S.No.68 is situated (i) within the Puducherry Town Limit, (ii) adjoining

and junction of 2 roads, i.e., Manaveli Road and 80 feet Tindivanam Bypass Road with a very wide road frontage of 1020 feet and (iii) their land is situated within 900 metres from Mahatma Gandhi Post Graduate Institute of Dental Sciences, the JIPMER Medical College and Hospitals, the Government Secretariat Residential quarters, All India Radio Station, TB Sanatorium, the Public Health Laboratory, the Pondicherry Police Head quarters officers and Residential quarters, the PIPDIC Mettupalayam Industrial Estate and so many number of Industrial Units and Residential Colonies.

96.They have also stated that without considering the location of the property, the land acquisition officer had fixed different values based on different guidelines. Their land was assessed at the lesser market value.

97.They have also stated that the guideline value (GLR) fixed by the government was in force upto 31.3.2000 for the above said lands, viz., (i) R.S.No.68 - Rs.80,700/- per Are, (ii) R.S.No.69 - Rs.32,280/- per Are, (iii) R.S.No.70 - Rs.16,140/- per Are and (iv) R.S.No.71 - Rs.10,760/- per Are.

98.They have also stated that the guideline value (GLR) fixed by the Government was in force on and from 1.4.2000 to 31.3.2001 for the lands comprised in (i) R.S.No.68 - Rs.80,700/- per Are (ii) R.S.No.69 - Rs.80,700/- per Are (iii) R.S.No.70- Rs.43,040/- per Are and (iv) R.S.No.71 - Rs.43,040/- per Are.

99.Based on the increase of value as shown above, they have also urged to enhance the compensation awarded by the Tribunal.

100.The letter which is sought to be produced as additional documentary evidence appears to have been addressed to P.W.1 V. Guhan, who is the second appellant in A.S.No.957 of 2012. It also appears that the second respondent/claimant Guhan had requested the Deputy Collector (Revenue) North to furnish the current GLR value for the land comprised in R.S.No.68 of 34 in Thattanchavady Revenue Village.

101.Accordingly, the details with regard to the GLR value assigned for the above lands has been furnished to him as shown hereunder:-

Sl.No.	Land Particulars	Name of the Revenue Village	Assessment Year	Assigned GLR Value
1	R.S.No.68	34- Thattanchavadi	1998-99	Rs.10/- per sq.ft.

Sl.No.	Land Particulars	Name of the Revenue Village	Assessment Year	Assigned GLR Value
2	R.S.No.68	34- Thattanchavadi	1999-2000	Rs.300/- per sq.ft.
3	R.S.No.68	34- Thattanchavadi	2000-01	Rs.75/- per sq.ft.

102.We have carefully considered this letter, bearing No.No.740/DC(R)N/REV/C2/GLR/2013, dated 4.4.2013, which is sought to be received as additional document.

103.Having given our careful consideration to the above letter, we find that this letter need not be received as additional documentary evidence.

104.In so far as our view is concerned, the land acquisition Tribunal based on the sale deeds, which were marked as Exs.P.2 to P.10, has come to the correct conclusion and assessed the market value of the acquired land at Rs.90/- per sq.ft. i.e., at Rs.97,200/- per Are.

105.The Tribunal has also observed that on perusal of Exs.P.2 to P.11, it could be inferred that the market value of the property has been increased every year and therefore, during the year 2000, the GLR value for the acquired property should be more than Rs.83/- per sq.ft. and therefore, the Tribunal has assessed the market value of the acquired land at Rs.90/- per sq.ft., i.e., at Rs.97,200/- per Are, which according to our view, does not require any enhancement.

106.The Tribunal has also given a finding saying that the market value of the land subject to full assessment peshkash or ground rent as the case may be exclusive in all cases of trees, buildings and standing crops was assessed at the rate of Rs.97,200/- per Are, i.e., at the rate of Rs.90/- per sq.ft. plus 30% Solatium and 12% additional market value.

107.Having regard to all the relevant facts and circumstances, we are of considered view that the appeals and the cross objections as well as the petition in M.P.No.3 of 2015 are deserved to be dismissed.

In the result, both the appeals as well as the cross objections and M.P.No.3 of 2015 are dismissed confirming the award passed by the Tribunal. The respondents/claimants/Cross Objectors are entitled to get the award amount granted by the land acquisition Tribunal along with the statutory benefits as contemplated under the provisions of Sections 23 and 28 of the Land Acquisition Act, 1894. However, there will be no order as to costs. Connected M.Ps. are also dismissed.

s/d-
Assistant Registrar

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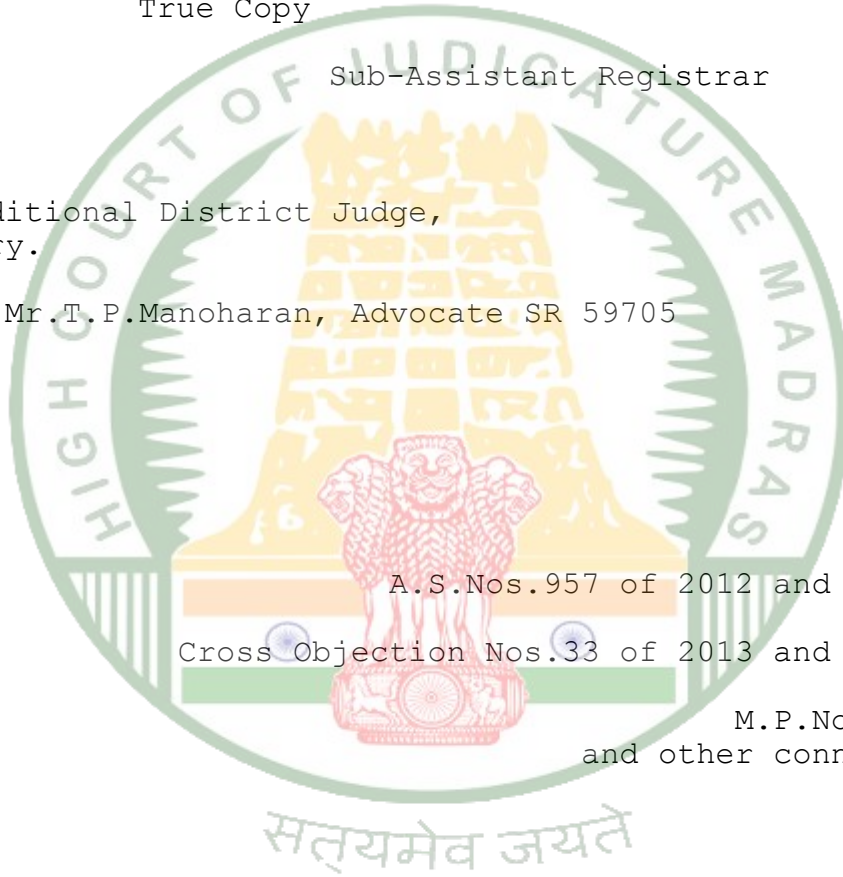
Sub-Assistant Registrar

To

The II Additional District Judge,
Pondicherry.

+ 1 cc to Mr.T.P.Manoharan, Advocate SR 59705

ug(co)
prk21/1



order in
A.S.Nos.957 of 2012 and 518 of 2013
and
Cross Objection Nos.33 of 2013 and 123 of 2013
and
M.P.No. 3 of 2015
and other connected M.Ps.

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