

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.6.2015

CORAM:

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

A.S.No.863 of 2006

The Special Tahsildar [LA],
Thoppur 400 KV Sub-station,
Salem.

..Appellant/Referring Officer

vs.

- 1.Kuppanna Gounder
- 2.Palanisamy
- 3.Aandi Gounder [deceased]
- 4.Muthusamy
- 5.Muthu Irasa Gounder
- 6.Sanjeevarayan
- 7.Nagappan
- 8.Perumal

- 9.The Superintending Engineer,
General Construction Circle,
Tamil Nadu Electricity Board,
Minnarpalayam, Trichy.

- 10.Rajamanickam
- 11.Palaniammal
- 12.Lakshmi

..Respondents/Claimants
Beneficiary/2nd Respondent

RR 10 to 12 brought on record as LR.
of the deceased 3rd respondent, vide order
dated 13.12.2006 made in CMP Nos.10404
to 10406 of 2006

Prayer: Appeal is filed against the Award passed in LAOP No.8/2002
dated 19.11.2003, on the file of the Sub Court, Mettur.

For appellant : Mr.P.Gunasekaran
Additional Government Pleader [AS]
For respondents: Mr.R.Subramaniam for RR 1, 2, 4 to 8
Mr.V.Ravi for R9
No appearance for RR 10 to 12

JUDGMENT
[by V.RAMASUBRAMANIAN, J.]

This Appeal is filed under Section 54 of the Land Acquisition Act, 1894, by the Special Tahsildar [Land Acquisition], questioning the correctness of the enhancement of compensation awarded by the Land Acquisition Tribunal.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader for the appellant and Mr.R.Subramaniam, learned counsel appearing for respondents 1, 2, 4 to 8.

3. By a Notification issued under Section 4[1] of the Land Acquisition Act, 1894, on 30.5.1984, the land measuring an extent of about 96 acres in Azhakusamudram village, Omalur Taluk, Salem District were sought to be acquired for the establishment of 400 K.V. Sub-Station at Thoppur. By Awards bearing Award Nos.1 to 6 and 8 of 1986, the Land Acquisition Officer fixed the compensation payable at Rs.9,517/- per acre. Not satisfied with the fixation of the Award, the land owners sought References under Section 18. The References were taken on file by the Principal Sub Court, Salem. In a batch of References in LAOP Nos.15 to 21/1992, the Tribunal, by a common order dated 12.4.1996, fixed the compensation at Rs.4/- per sq.ft.

4. As against the enhancement of compensation so awarded by the Tribunal, the Special Tahsildar filed Appeals in A.S.Nos.858 to 864 of 1997 on the file of this Court.

5. During the pendency of the above Appeals, one of the References, which was delayed due to various reasons, came up for disposal in LAOP No.8/02 only in November, 2003. At that time, the common order passed by the Principal Sub Court, Salem, in LAOP Nos.15 to 21/1992 dated 12.4.1996 was produced as Ex.C.3. Concurring with the decision already rendered in the other batch of Land Acquisition Original petitions, the Sub Court passed a judgment on 19.11.2003 in LAOP No.8/2002, fixing the compensation at Rs.4/- per sq.ft. Aggrieved by the said judgment, the Special Tahsildar has come up with the present Appeal.

6. But before this Appeal came up for disposal, the other Appeals already pending on the file of this Court in A.S.Nos.858 to 864 of 1997 came to be dismissed on merits by Justice R.S.Ramanathan, by a judgment dated 17.7.2013. It will be useful to extract paras.7 and 8 of the judgment of the learned Judge.

"7. It is an admitted fact that the lands, comprised in S.Nos.154/1, 166/1, 166/2, 167, 181/1, 181/2B, 181/3B and 165/2 of Karukkalvadi Village, and S.Nos.1/1, 3/2A, 26/1, 26/2A, 26/3A, 26/6, 22/1, 2, 8, 11A, 28/1, 2, 4, 5 and 28/6 of Alagusamudram Village and 30/2A, 30/1 and

30/2C1 belonged to the claimants/respondents. Though the lands were denoted as 'Manavari Dry Lands' in the Government Records, as per Ex.R.1, considering the evidence of R.W.1, in my opinion, the Reference Court has rightly treated the lands as house sites. The Reference Court also extracted the evidence of R.W.1, in its order and a perusal of the evidence deposited by R.W.1, would make it clear that the acquired lands are abutting the roads and they are having high potential building value and the Reference Court, after considering R.1-Adangal Extract and R.2 and R.3-Sketches has rightly held that the acquired lands are to be treated as housing plots.

8. Further, I do not find any infirmity in the order of the Reference Court by taking into consideration of the sale deed-Ex.C.1, dated 08.06.1984, for arriving at the market value. Though Ex.C.1, is dated 08.06.1984, considering the date of 4(1) Notification, i.e., 30.05.1984, there is nothing wrong in taking into consideration the sale deed, dated 08.06.1984 in respect of the land, comprised in S.No.139/6 of Karukkalvadi Village, which is also admittedly appurtenant to the acquired lands. Further, the Reference Court, considering the value mentioned in Ex.C.1, reduced the value by giving some deductions towards development and fixed Rs.4/- per sq.ft., It is seen from Ex.C.1, that the sale consideration was fixed at 6.50 per sq.ft., and after making some deduction regarding development, Rs.4/- per sq.ft was fixed by the Reference Court. Hence, I do not find any illegality or perversity in the order passed by the Reference Court in fixing the value of the compensation at Rs.4/- per sq.ft. in respect of the acquired lands."

7. We are in respectful agreement with the view taken by the learned Judge. The judgment in LAOP No.8/2002 against which the present Appeal arises is a part of the batch of References in LAOP Nos.15 to 21/1992. A common order passed by the Tribunal in those batch of cases has already been confirmed and this has attained finality. Therefore, following the said decision, this Appeal is also dismissed. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)
dt. 07.9.15

//True Copy//

Sub Assistant Registrar

gs.

To

The Sub Court, Mettur.

Copy to: The Section Officer,
VR Section, High Court, Madras.

+ 1 cc to M/s. R. Subramanian, Advocate Sr.31262
+ 1 cc to the Additional Government Pleader Sr.31322

A.S.No.863 of 2006

UG(CO)
EU 09.09.15



WEB COPY