

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.6.2015

CORAM

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

A.S.Nos.929 to 931 of 2004
&
Cros.Obj.Nos.69 to 71 of 2015

The Special Tahsildar (ADW)
Dharmapuri.

...Appellant in A.S./Referring Officer/
Respondent in Cros.Obj in all AS.

Vs.

K.Seenivasan

...Respondent/Claimant in AS No.929/04/
Appellant in Cros.Obj.No.69/15

Venkatasalam

...Respondent/Claimant in AS No.930/04/
Appellant in Cros.Obj.No.70/15

Krishnan

...Respondent/Claimant in AS No.931/04/
Appellant in Cros.Obj.No.71/15

Appeals under Section 54 of the Land Acquisition Act and Cross
Appeals under Order XLI, Rule 22 of CPC, against the order dated
21.01.2003 made in LAOP Nos.142, 144 & 146 of 1996 on the file of the
Additional District Court, Dharmapuri.

For Appellant in A.S./ : Mr.P.Gunasekaran, AGP (AS)
Respondent in Cros.Obj.

For Respondent in A.S./ : Mr.S.Parthasarathy, S.C.
Appellant in Cros.Obj. For Ms.V.R.Anna Gandhi

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J U D G M E N T
(Delivered by V.Ramasubramanian, J.)

These appeals and cross objections arise out of the enhancement
of compensation ordered by the Land Acquisition Tribunal.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the Special Tahsildar/appellant and Mr.S.Parthasarathy, learned senior counsel appearing for the claimants, who have come up with cross objections.

3. By a notification dated 23.9.1994 issued under Section 4(1) of the Land Acquisition Act, 1894, certain lands in V.Jettihalli Village, Dharmapuri Taluk and District were sought to be acquired for the purpose of providing house sites to the people belonging to Adi Dravida communities. By an award bearing No.4/94 passed on 20.10.1994, the Land Acquisition Officer fixed the compensation at Rs.71,630/- per hectare which worked out to roughly Rs.0.04 per sq.ft. The land owners sought a reference under Section 18. The Sub Court, Dharmapuri enhanced the compensation in some cases to Rs.12.50 per sq.ft. Aggrieved by such enhancement of compensation ordered by the Sub Court, the Special Tahsildar, Land Acquisition has come up with the above three appeals.

4. Contending that the enhancement granted by the Tribunal was wholly inadequate, the land owners have come up with the above cross objections.

5. It appears from the award of the Tribunal that on the side of the claimants, two witnesses were examined. A sale deed dated 03.5.1993 was filed as Ex.C1. The date of the notification under Section 4(1) was 23.9.1993. Under Ex.C1 dated 03.5.1993, the land of an extent of about 640 sq.ft. in Survey No.326 was sold for a consideration of Rs.16,000/-. Therefore, the claimants contended that the market rate was more than Rs.20/- per sq.ft. The Tribunal found that there was no contra evidence to discredit Ex.C1. As a matter of fact, the person examined as PW2 by the claimants was none other than the seller under Ex.C1.

6. Despite the fact that the Tribunal found Ex.C1 to be reliable, the Tribunal arrived at the compensation, only at Rs.12.50, on the sole ground that there has to be a deduction of 50% towards development charges. In other words, the Tribunal proceeded on the basis that Rs.25/- per sq.ft. was the correct market value as per Ex.C1 and that 50% had to be deducted towards development charges.

7. In respect of an adjoining land, the Additional District Court, Dharmapuri, fixed compensation at Rs.16.67 per sq.ft., after deducting 1/3rd towards the development charges. In an award passed in LAOP No.19/97 on 24.9.1993, the Land Acquisition Tribunal went on the basis of the very same document namely Ex.C1 dated 03.5.1993,

arrived at the market value at Rs.25/- per sq.ft. and after deducting 1/3rd of the said amount towards development charges fixed the compensation at Rs.16.67 per sq.ft.

8. The said award of the Tribunal in LAOP No.19/97 came to be approved by a learned Judge of this Court in A.S.No.171 of 2014 by a judgment dated 31.8.2010.

9. Therefore, it is clear that in respect of identical lands, on the basis of the very same sale deed, the market value was arrived at by another Tribunal, only after deducting 33^{1/3} % towards development charges. Hence, we are of the considered view that the deduction of 50% towards development charges is not proper. If the compensation has been arrived at in respect of an adjoining land which is identical to the land in question in these appeals is Rs.16.67, the respondents in these appeals cannot be paid a different amount of compensation.

10. In view of the above, the appeals filed by the Special Tahsildar are bound to fail. The cross objections filed by the claimants are bound to be allowed.

11. Accordingly, the appeals are dismissed. The cross objections are allowed, directing the appellant to pay compensation to the lands of the respondents by fixing the market value at Rs.16.67 per sq.ft. The other benefits, as ordered by the Land Acquisition Tribunal, shall remain and the appellants shall deposit the amount calculated as per this judgment within a period of eight weeks, together with the usual solatium, interest etc. The Additional Government Pleader is entitled to separate fees in respect of each of these appeals. No costs. Consequently, CMP Nos.449 to 451 of 2007 in A.S.Nos.929 to 931 of 2004 are also dismissed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

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To

The Additional District Judge,
Dharmapuri.

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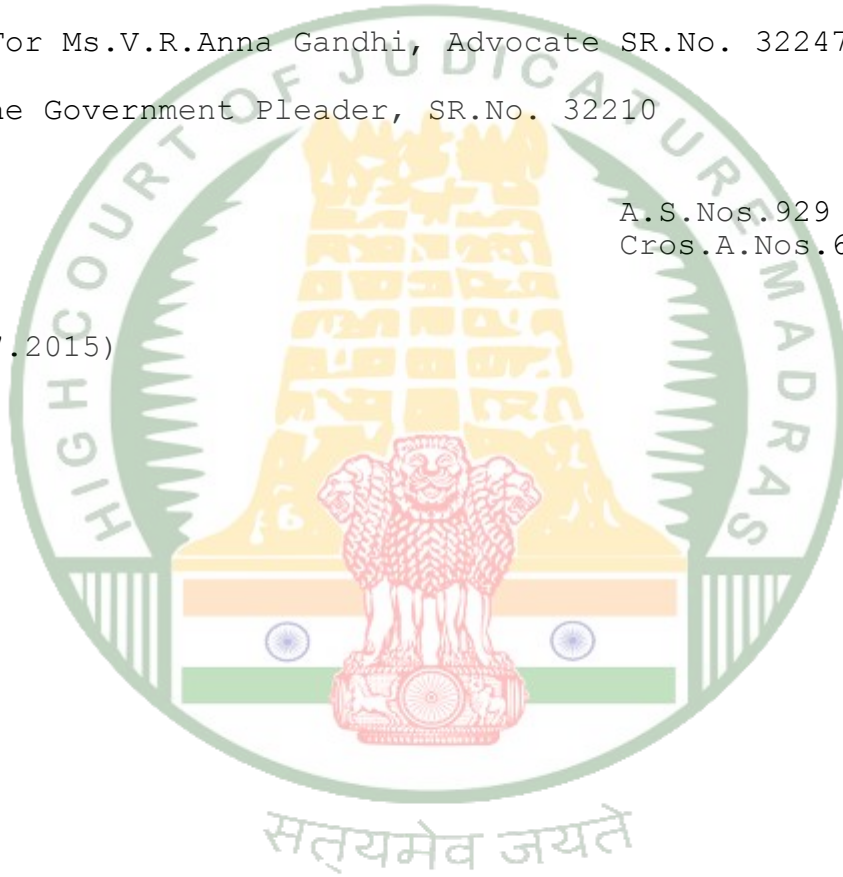
The Section Officer,
V.R.Section, High Court,
Madras.

3 CCs to For Ms.V.R.Anna Gandhi, Advocate SR.No. 32247 to 32249

1 CC to the Government Pleader, SR.No. 32210

A.S.Nos.929 to 931 of 2004 &
Cros.A.Nos.69 to 71 of 2015.

JSV (CO)
PSI (29.07.2015)



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