

4IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

Appeal Suit Nos.1264 to 1288 of 2015
and
M.P.Nos.1 & 2 of 2015

The Special Tahsildar,
Land Acquisition,
North Madras Thermal Power Project,
(Now at the Tahsildar Ponneri)
Chennai-600 120 ...Appellant in all appeals

V

A.Ganesan	..1st Respondent in AS.1264/15
V. Elumalai	..1st Respondent in AS.1265/15
Harikrishnan	..1st Respondent in AS.1266/15
P. Ganesan	..1st Respondent in AS.1267/15
Saroja	..1st Respondent in AS.1268/15
K. Kuppan	..1st Respondent in AS.1269/15
Sairam	..1st Respondent in AS.1270/15
A.Elumalai	..1st Respondent in AS.1271/15
S. Selvaraj	..1st Respondent in AS.1272/15
Munuswamy	..1st Respondent in AS.1273/15
Palani Achari	..1st Respondent in AS.1274/15

1. Jeevarathina Achari
2. Sundaresa Achari
3. Kandasamu Achari ..Respondents 1to3 in AS.1275/15

Kandasamy Achari	..1st Respondent in AS.1276/15
V. Gopalakrishnan	..1st Respondent in AS.1277/15
Thiruvengkadam	..1st Respondent in AS.1278/15
Pugazhendi	..1st Respondent in AS.1279/15
Pachiammal	..1st Respondent in AS.1280/15
Elumalai	..1st Respondent in AS.1281/15
Munivel	..1st Respondent in AS.1282/15
Soundararajan	..1st Respondent in AS.1283/15

1. Kuttiappan
2. Maliammal ..Respondents 1&2 in AS.1284/15

1. Kuppammal
2. Ellammal ..Respondents 1&2 in AS.1285/15

A. Subramani ..1st Respondent in AS.1286/15

M.P. Nagarathinam @
M.P. Maragatham ..1st Respondent in AS.1287/15

1. P. Goalakrishnan
2. P. Venkatesan ..Respondent 1&2 in AS.1288/15

The Superintending Engineer,
TNEB, North Madras,
Thermal Power Project,
Chennai-120 ..2nd Respondent in A.S.1264
to 1274, 1276 to 1283,
1286 and 1287/15

..4th Respondent in AS.1275/15
3rd respondent in A.S.1284/15,
1285/15 and 1288/15

under Section 54 of the Land Acquisition Act against the
order, dated 09.02.2015, passed by the Subordinate Judge,
Ponneri, in L.A.O.P.Nos.2164, 2165, 2167 to 2170 of 1998,
2173, 2175 to 2180, 2192, 2197, 2213, 2216, 2217, 2220, 2231,
2237, 2243, 2246, 2550, 2263 of 1998.

For Appellant :Mr.P.Gunasekaran,A.G.P.

For Respondents :Mr.R.Krishnaswamy for R1
for claimants in all A.S.
Mr.V.Viswanathan for E.B
in all A.S.

COMMON JUDGMENT

(Judgment of the Court was delivered by A.SELVAM,J.)

These appeal suits are directed against the common award
passed in L.A.O.P.Nos.2164, 2165, 2167 to 2170 of 1998, 2173,
2175 to 2180, 2192, 2197, 2213, 2216, 2217, 2220, 2231, 2237,
2243, 2246, 2263, 2550 of 1998, by the Land Acquisition
Tribunal/Sub Court, Ponneri.

2. Since common questions of law and facts are involved,
even though notices have not been sent to claimants in
A.S.Nos.1265, 1267, 1269 to 1271, 1280 to 1285, 1287 of 2015,
Mr.R.Krishnasamy, learned counsel has taken notice for them.

3. The appellant herein, as Land Acquisition Officer, has
acquired 31.51 1/2 acres of land, situate in Vallur Village,
Ponneri Taluk, for the purpose of constructing staff quarters,
Tamil Nadu Electricity Board and awarded a compensation of
RS.60/- per cent. The first respondent in each appeal, as

claimant, has objected the quantum of compensation fixed by the Land Acquisition Officer. Under the said circumstances, various references have been made under Section 18(1) of the Land Acquisition Act, 1894, to the Land Acquisition Tribunal/Sub Court, Ponneri and the same have been taken on file in L.A.O.P.Nos, mentioned supra.

4. The consistent case put forth on the side of the claimants in all proceedings is that near the acquired lands, so many facilities are available and so many house plots have been sold for higher amount. Under the said circumstances, compensation is liable to be enhanced.

5. The Land Acquisition Tribunal/Sub Court, Ponneri, after hearing arguments of both sides and upon perusing the relevant documents filed on the side of the claimants, has fixed a compensation of Rs.1,500/- per cent, by way of passing the impugned common award and the same is being challenged in the present Appeal Suits.

6. It is an admitted fact that the appellants/Land Acquisition Officer has acquired an extent of 31 acres 51 1/2 cents of lands, situate in Vallur village, Ponneri Taluk and awarded a compensation of Rs.60/- per cent. It is also equally an admitted fact that a Notification under Section 4 (1) of the Land Acquisition Act, 1894 has been given on 23.09.1987. The Land Acquisition Tribunal, on the basis of the value mentioned in Ex.C2, has fixed a compensation of Rs.1,500/- per cent.

7. The learned Additional Government Pleader has contended to the effect that the acquired lands are nothing but Nanja lands and since the same have been acquired for the purpose of putting up constructions, huge amounts have to be spent towards development charges and the Land Acquisition Tribunal, without considering the classification of the lands acquired and also without considering that huge amounts have to be spent towards developments charges, has erroneously fixed a sum of Rs.1,500/- per cent by way of compensation and therefore, the common award passed by the Land Acquisition Tribunal is liable to be modified.

8. The learned counsel appearing for the first respondent in all the appeals has also contended to the effect that the lands in question have been acquired in 1987 and the Land Acquisition Tribunal, after considering the juxtaposition of the lands acquired and also data land (Ex.C2) has rightly awarded a compensation of Rs.1,500/- per cent and further, 10% deduction would be reasonable towards development charges and to that extent, the common award is liable to be modified.

9. As mentioned supra, the lands acquired are classified as 'Nanja' lands and the same have been acquired only for the purpose of putting up construction. Since the lands acquired are nothing but 'Nanja' lands and since the same have been acquired only for the purpose of putting up construction, definitely some amounts have to be spent so as to make the same fit for construction.

10. The Land Acquisition Tribunal has fixed compensation only on the basis of value mentioned in Ex.C2, Sale Deed, dated 17.8.1987. At this juncture, the learned Additional Government Pleader has contended that Notification under Section 4(1) of the Act has come into existence on 23.09.1987, whereas, Ex.C2 has come into existence on 17.8.1987 and since Ex.C2 is a recent document from the date of Section 4(1) Notification, the value mentioned therein cannot be taken as a basis for fixing compensation to the lands acquired.

11. It is an admitted fact that a Notification under Section 4(1) of the said Act has been given on 23.09.1987, whereas, Ex.C2 has come into existence on 17.08.1987. Even though Ex.C2 has come into existence on 17.08.1987, the value mentioned therein can be a basis for fixing compensation to the acquired lands.

12. In Ex.C2, one cent of land has been sold for a sum of Rs.1,500/-. The Land Acquisition Tribunal, as pointed out earlier, without giving deduction, has fixed compensation of Rs.1,500/- per cent.

13. It has already been pointed out that the lands acquired are nothing but 'Nanja' lands and the same have been acquired only for the purpose of putting up construction. Under the said circumstances, this Court is of the view that 20% deduction towards development charges would be reasonable and in that way, after deducting 20% from Rs.1,500/-, it comes to Rs.1,200/- per cent and the same can be fixed as compensation to the acquired lands.

In fine, these Appeal Suits are allowed in part. The common award passed by the Land Acquisition Tribunal/Sub Court, Ponneri, is modified as follows:

The first respondent/claimant in each Appeal Suit is entitled to get Rs.1,200/- (Rupees one thousand two hundred only) per cent by way of compensation. In other aspects, the

common award passed by the Land Acquisition
Tribunal is confirmed.
No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk

To

- 1.The Subordinate Judge, Ponneri,
 - 2.The Superintending Engineer,
TNEB, North Madras,
Thermal Power Project,
Chennai-120
 3. The Special Tahsildar,
Land Acquisition, North Madras
Thermal Power Project,
(Now at the Tahsildar Ponneri)
Chennai 600 120.
 4. The Section Officer, VR Section, High Court, Madras.
- + 25 ccs to Mr.R. Krihanswamy, Advocate Sr.70859 to 70883
- + 1 cc to Government Pleader SR.70943
- + 25 ccs to Mr.V. Viswanathan, Advocate Sr.71167 to 71173 and
71177 to 71194

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1288 of 2015

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