IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.04.2016
CORAM :
THE HONOURABLE Mr. JUSTICE N.KIRUBAKARAN
AS.No.162 of 2016
and CMP.Nos.1716 and 3122 of 2016

S.Veeraraghavan .. Appellant/Claimant

Vs.

1.Special Tahsildar (LA)
SIPCOT, Sriperambadur Scheme,
Sriperambadur.

2.The Managing Director, SIPCOT
No.1-9A, Rukumani Lakshmipathi Salai,
Egmore, Chennai-8. ... Respondents/Referring officer & Requisition Body

Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the judgment and decree dated 16.07.2015 made in LAOP.No.18 of 2015 on the file of the District Judge No.II, Kancheepuram.

For Appellant : Mr.S.Veeraraghavan
Party-in-person.

For Respondents: Mr.P.Gunasekaran, AGP for R1.
Mr.Ramesh Venkatachalapathy for R2

J U D G M E N T

The appeal is preferred by the land owner. Aggrieved over the value of Rs.300/- per cent, fixed by the Land Acquisition Officer, for the lands acquired from him, for the purpose of establishing a Industrial Estate at Irunkattukottai. As against the said order, the referral Court/District Judge, Kancheepuram by judgment and decree dated 16.07.2015 made in LAOP.No.18 of 2015 enhanced the value of compensation to Rs.3,000/- per cent.

2.The brief facts of the case are as follows :-

The property measuring about 3grounds and 344sq.ft comprised in S.No.177/5, Irunkattukottai, Sriperampadur Taluk, Kancheepuram District belongs to the appellant was acquired by virtue of Section 4(1) notification dated 27.09.1996.

3.After enquiry, on 31.07.1998 award was passed fixing the value of compensation at Rs.300/- per cent. At the instance of the appellant, Section 18 reference was made to the Civil Court and the Civil Court after elaborate trial determined the value at Rs.3,000/- per cent on 16.07.2015, stating that the amount fixed by the trial Court is less, hence, the land lord is before this Court.

4.Heard, Mr.Veeraraghavan, Party in person, Mr.Gunasekaran, learned Additional Government Pleader appearing for the first respondent and Mr.Ramesh Venkatachalapathy learned counsel appearing for second respondent/acquisition body.

5.The purpose of acquisition is for establishing a SIPCOT at Irunkkatukottai, already for the same purpose neighbouring lands were also acquired, the compensation was fixed by the referral Court in respect of the surrounding properties, against the said award of compensation, Appeal Suit was preferred by the Special Tahsildar, Land Acquisition in AS.No.177 of 2006 etc., batch before this Court. The Division Bench of this Court by judgment dated 30.11.2009 fixed the land value at Rs.6,150/- per cent, by relying upon the data sale deed in Ex.C2 dated 09.09.1994 in respect of lands comprised in S.No.105/15. After rejecting Ex.RB1, the property which was sold Rs.300/- per cent on 06.02.1996, relied on by the Special Tahsildar. The reason for relying upon the data sale deed dated 09.09.1994 by the Division Bench are that the property is comprised in S.No.105/15 and the extent of land conveyed is 1 acre 48 cents and the sale is between the individual and the company. Further, the Division Bench is of the opinion that the sale deed was executed on 09.09.1994 is almost two years ago, as on the date of Section 4(1) notification dated 17.09.1996. Therefore, taking Ex.C2 as a genuine sale deed which came into existence two years prior to the acquisition. The Division Bench determined the value of land at Rs.6,150/- per cent. Further the contention of the Government that Ex.C2 document is abutting document and the property lies abutting National Highways. Whereas, the property which was subject matter of AS.No.177 of 2006 etc batch relate to S.Nos.105/15 and lies away from the properties shown in Ex.C2 was rejected stating that the acquisition was also from the same block measuring about 1829acres. Therefore, the distance will not have any consequence. Even the acquired property enbloc covering the area of 1 to 4 kilometers. The Division Bench observed the same in Paragraph 13 of the said judgment, which is extracted herein as follows :

"13.When we consider the submissions of learned Special Government Pleader as well as learned counsel for the respective claimants, we find that the consideration for fixing the value of the land by the Reference Court was restricted to the data land covered by Ex.RB1 dated 06.02.1996 and the claimants document covered by Ex.C2 dated 09.09.1994. In so far as Ex.RB1 is concerned, the said lands were situated in survey Nos.122 and 123, and the date of sale was on 06.02.1996. The extent of land sold was 4.11 acres. The total sale consideration was Rs.1,23,300/- which worked out to Rs.300/- per cent. It is no doubt true that the said Ex.RB1 was contemporaneous document which came into existence at the same time when the acquisition came to be made viz., 27.09.1996. As far as Ex.C2 is concerned, the said sale deed was dated 09.09.1994 and the property was situated in Survey No.105/15 and the extent of land conveyed under the said document is 1 acre and 48 cents. The comparative consideration of the above referred two documents shows that Ex.C2 is two years prior to the acquisition itself and the extent was not a small area. We have to keep in mind the acquisition was made by invoking emergency provisions of the Land Acquisition Act. We also perused Ex.C2 and that was a sale by an individual in favour of a company. In fact, there is no indication in the said document that the sale was as between relations or the vendor and the purchaser were in any way connected with each other. There is also no allegations at the instance of the Land Acquisition Officer as to any clandestine deal in the execution of the said document or the transaction. In such circumstances, there is absolutely, no scope to hold that the said document was not genuine in order to exclude the same from consideration. As far as Ex.RB1 is concerned, even though the said document is of the relevant year 1996 itself, it was larger in extent. If genuine sale deed which came into existence two years prior to the acquisition, reveals the sale value at a sum of Rs.6,150/- per cent, there is no reason to discard the same for the purpose of arriving at the value of the lands which came to be acquired. The only point which was argued against the said document was that the concerned survey No.105/15 was located just abutting the National Highway and therefore, the value of the land would have been on the higher side. On that score reliance placed upon the said document cannot be rejected. At best while taking the said value and apply the same in respect of acquisition of all other lands in that block is made, the Reference Court should have applied the principle of moderation by making a reasonable percentage of deduction in the value so that there can be no adverse interest either as against the land owners or the Acquisition Body. Such a moderation on the value of the land under Ex.C2 will be necessitated, inasmuch as, the total acquisition in that block was 1829acres. Therefore, when the land covered by Ex.C2 was abutting the National Highway, the land situated at the far of the same block which was subject matter of acquisition would not have fetched the very same price. The perusal of the judgment discloses that as between the land covered by Ex.C2 and the far end of acquired lands, the distance was ranging from 1 to 4 kilometres.

6.From the above, it is clear that the Division Bench after meticulous analysis relied upon the Ex.C2 data sale deed dated 09.09.1984 and fix the value at Rs.6,150/- per cent.

7.In this case also, the acquisition for establishment of SIPCOT at Irunkattukottai scheme, Sriperambadur, the properties covered under the judgment of Division Bench are situated at Irunkattukottai Village and the properties of the appellant herein also situated in the same Irunkattukottai Village. The very same Section 4(1) notification covers the appellant property as well as the properties covered under the judgment of Division Bench.

8.Following the Judgment of the Division Bench dated 30.11.2009 in AS.No.177 of 2006 etc., batch, this Court determined the value at Rs.6,150/- per cent. One more aspect which enable this Court to follow the said judgment is the value fixed by the Division Bench has already attained finality, neither the acquiring authority or the requisition authority has filed the Special Leave Petition before the Hon'ble Supreme Court. Therefore, the respondents will not have any grievance in this regard.

9.As far as the deductions are concerned, Mr.Gunasekaran, leaned Additional Government Pleader as well as Mr.Ramesh Venkatachalapathy insisted above 33% deduction towards development charges. Whereas, Mr.Veeraraghavan, the appellant/party in person relied upon the judgment of the Hon'ble Supreme Court in Land Acquisition Officer and Revenue Divisional Officer v. Ramanjulu and others reported in (2005) 9 SCC 594 and seeks deduction towards development charges at 20% (usually, the normal rule is 33%), this Court analysis the contention of both parties. It is seen the purpose of acquisition is for establishing industrial estate. The acquisition is enbloc acquisition. Therefore, there may not be any much development like laying of road and reserving area for public purposes etc.,

10.In a similar circumstances, the Hon'ble Supreme Court in the judgment reported in (2005) 9 SCC 594 which the appellant relies upon is also about the acquisition of lands for the purpose of expansion of Industrial Estate. Therefore, the Hon'ble Supreme Court has deducted only 15% towards developmental charges. This Court is aware that the normal deduction charges will be 33%. However, following the judgment of the Hon'ble Supreme Court reported in (2005) 9 SCC 594 and it is for establishing of Industrial Establishment Park, 15% is deducted towards development charges.

11.The value as per the data sale deed dated 09.09.1984 (as relied upon by the Division Bench in AS.No.177 of 2006 batch), the value per cent is Rs.6,150/-, deduction of 15% towards development charges as per the judgment of the Hon'ble Supreme Court reported in (2005) 9 SCC 594. The land value after deduction is (Rs.6,150 - 15% = Rs.5227.50). The appellant is entitled the land value of Rs.5,227.50 per cent along with other benefits and interest.

12.To sum up in the result, the appeal is partly allowed as indicated below :-

(a)The land value in this appeal is fixed at Rs.5,227.50 per cent with 30% solatium;

(b)The Claimant is entitled to an additional amount of 12% per annum, from the date of notification issued under Section 4(1) of the Land Acquisition Act, till the date of Award of the Referring Officer, or taking possession of the land, whichever is earlier;

(c)The claimant is entitled to 9% interest for the first year from the date of taking possession of the land and 15% for every subsequent year, on the amount calculated as market value till the date of deposit;

(d)Any excess amount deposited, after satisfying the above award, is permitted to be withdrawn by the respondent.

(e)there shall be no order as to costs.

(f)Consequently, connected miscellaneous petitions are closed.

13.The appeal is partly allowed, time for making payment twelve weeks from the date of receipt of copy of this order. Failing which, the Managing Director, SIPCOT, Chennai/second respondent herein shall appear before this Court on 07.11.2016.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The District Judge No.II, Kancheepuram.

copy to

The Managing Director
SIPCOT
No.1-9A Rukmani Lakshmipathi Salai,
Egmore, Chennai-8

+3 ccs to Mr.Maruthapandy Advocate sr 27194
+1 cc to Mr.Ramesh Venkatachalapathy Advocate sr 27228

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