

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2016

CORAM

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

Appeal Suit Nos.227 to 265 of 2016
& C.M.P.Nos.4016 to 4092 of 2016

The Special Tahsildar
Land Acquisition
North Madras Thermal Power Project
(Now at the Tahsildar Ponneri)
Chennai 600 120

... Appellant/Referring
Authority in all Appeals

Vs

S.M.Ramachandran ...R1/Claimant in AS.227 of 2016
Karuthammal @ Sundarammal ...R1/Claimant in AS.228 of 2016

1.K.Shanmugam
2.K.Ganesan
3.K.Ramachandran ...R1 to R3/Claimant in AS.229 of 2016

K.Ramachandran ...R1/Claimant in AS.230 of 2016
M.Punniyakotti ...R1/Claimant in AS.231 of 2016

1.Kasthuri
2.Kanniammal ...R1 & R2/Claimants in
AS.232 & 235 of 2016

K.Ellappan ...R1/Claimant in AS.233 of 2016

1.S.M.Krishnan
2.Ramachandran
3.Ravi ...R1 to R3/Claimants in AS.234 of 2016

Kasi @ Krishnan ...R1/Claimant in AS.236 of 2016

S.M.Krishnan ...R1/Claimant in AS.237 of 2016

1.Suseela
2.Srinivasu
3.Kuppan ...R1 to R3/Claimants in AS.238 of 2016

1.Ramachandran
2.Ganesan ...R1 & R2/Claimants in AS.239 of 2016

2.Sundrammal
3.Ganesan ...R1 To R3/Claimants in AS.240 of 2016

Natesan Pillai ...R1/Claimant in AS.241 of 2016
Radhakrishnan ...R1/Claimant in AS.242 of 2016
Shanmugam ...R1/Claimant in AS.243 of 2016

1.Saraswathi Ammal(Died)
2.Prema
3.Ganesan
4.Maha
5.Palani
6.Saravanan
7.Seema ...R1 to R6/Claimants in AS.244 of 2016

Nagarajan ...R1/Claimant in AS.245 of 2016
Govindasamy ...R1/Claimant in AS.246 of 2016
Rajammal ...R1/Claimant in AS.247 of 2016
Krishnan ...R1/Claimant in AS.248 of 2016

Pachai Pillai(Died)
1.Lalitha
2.Maheswari
3.Kothandaraman
4.Ravi ...R1 to R4/Claimants in AS.249 of 2016

Mannarpillai ...R1/Claimant in AS.250 of 2016

Ramalingam (Died)
1.Sarojini
2.Karpagam
3.Nandhakumar ...R1 to R3/Claimants in AS.251 of 2016

1.Elumalai
2.Munuswamy
3.Kandasamy
4.Sundaresan ...R1 to R4/Claimants in AS.252 of 2016

Elumalai ...R1/Claimant in AS.253 of 2016

1.Nagammal
2.Sundaresan ...R1 & R2/Claimants in AS.254 of 2016

1.Kanthammal
2.Sundaresan ...R1 & R2/Claimants in AS.255 of 2016

1.Rajakani
2.Rangasamy ...R1 & R2/Claimants in AS.256 of 2016

Balaramapillai ...R1/Claimants in AS.257 & 258 of 2016

Kanthammal ...R1/Claimant in AS.259 of 2016
Elumalai ...R1/Claimant in AS.260 of 2016
N.Kuppan ...R1/Claimant in AS.261 of 2016

N.Raghavan	...R1/Claimant in AS.262 of 2016
Venkatesan	...R1/Claimant in AS.263 of 2016
A.S.Natarajan	...R1/Claimant in AS.264 of 2016
M.Subramanian	...R1/Claimant in AS.265 of 2016

The Superintending Engineer
TNEB, North Madras
Thermal Power Project
Chennai - 120.

...R2 in AS.Nos.227, 228, 230, 231, 233,
236, 237, 241 to 243, 245 to 248,
250, 253 & 257 to 265 of 2016
...R3 in AS.Nos.232, 235, 239
& 254 to 256 of 2016
...R4 in AS.Nos.229, 234, 238,
240 & 251 of 2016
...R5 in AS.Nos.249 & 252 of 2016
...R6 in AS.244 of 2016

Appeal suits filed under Section 54 of the Land Acquisition Act against the judgment and decree, dated 27.4.2015, passed by the Subordinate Judge, Ponneri, in L.A.O.P.Nos. 2415, 2399, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2394, 2396, 2398, 2399, 2401, 2402, 2404, 2405, 2410, 2411, 2412, 2413, 2414, 2416, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2436, 2340, 2443, 2453, 2457 & 2491 of 1998 respectively.

For Appellant	:	Mr.P.Gunasekaran,
in all Appeal Suits		Additional Government Pleader
For Respondent-1	:	Mr.R.Krishnasamy
in all Appeal Suits		

COMMON JUDGMENT

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

These Appeal Suits have been directed against the common award dated 27.4.2015 passed in L.A.O.P.Nos.2415, 2399, 2401, 2402, 2404, 2405, 2410, 2411, 2412, 2413, 2414, 2416, 2339, 2343, 2344, 2345, 2347, 2349, 2350, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2436, 2443, 2453, 2457, 2491, 2340, 2342, 2346, 2348, 2394, 2396, 2398 and 2427 of 1998, by the Land Acquisition Tribunal/Sub Court, Ponneri.

2. The appellant herein, as Land Acquisition Officer, has acquired the lands situate in Neithavoyal Puzhuthivakkam Village, Thiruvottiyur, Ponneri Taluk and awarded a compensation of Rs.250/- per cent. Against the quantum, various references have been made under section 18 of the Land Acquisition Act, 1894 and the same have been taken on file in L.A.O.P.Nos.2415, 2399, 2401, 2402, 2404, 2405, 2410, 2411, 2412, 2413, 2414, 2416, 2339, 2343, 2344, 2345, 2347, 2349, 2350, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2436, 2443,

2453, 2457, 2491, 2340, 2342, 2346, 2348, 2394, 2396, 2398 and 2427 of 1998 on the file of the Land Acquisition Tribunal.

3. The main contentions put forth on the side of the claimants are that the lands acquired are situate near Roads and the same are having future prospects. Under such circumstances, the quantum of compensation given by the Land Acquisition Officer is very meager and therefore the claimants are entitled to higher compensation.

4. On the basis of the available evidence on record, the Land Acquisition Tribunal/Sub Court, Ponneri, has awarded a compensation of Rs.4230/- per cent on the basis of the price fixed in Ex.C.1 filed on the side of the claimants. Against the quantum fixed by the Land Acquisition Tribunal/Sub Court, Ponneri, these appeal suits have been preferred on the file of this Court.

5. Since the common questions of law and facts are involved in all these appeal suits, common judgment is pronounced.

6. It is an admitted fact that the appellant, as Land Acquisition Officer, has acquired the lands in question and awarded a compensation of Rs.250/- per cent. It is also equally an admitted fact that the Land Acquisition Tribunal, after considering the rival contentions put forth on either side and also on the basis of Ex.C.1 has awarded a compensation of Rs.4230/- per cent.

7. The learned Additional Government Pleader has repeatedly contended that the lands in question are nothing but punja lands and the same have been acquired for common purpose and the Land Acquisition Tribunal has erroneously relied upon the price mentioned in Ex.C.1. Since Ex.C.1 has come into existence on 16.12.1989 and further Ex.C.1 has come into existence only in respect of a smaller extent and the Land Acquisition Tribunal has failed to give any deduction towards development charge and therefore, the award passed by the Land Acquisition Tribunal is liable to be modified.

8. Per contra, the learned counsel appearing for the first respondents/claimants has contended that on the side of the claimants, Ex.C.1 Sale Deed dated 16.12.1989 has been filed and on the side of the Land Acquisition Officer, no document has been marked and the Land Acquisition Tribunal, after considering the fact that a smaller extent has been dealt with under Ex.C.1, has given 25% deduction towards fancy charge and therefore, once again deduction need not be given towards development charge and under such circumstances, the quantum of compensation fixed by the Land Acquisition Tribunal is perfectly correct and the same does not call for any modification.

9. It is an admitted fact with regard to acquisition of the lands in question, 4(1) Notification has been given on 5.3.1990 as well as on 20.4.1990. It is pertinent to note that Ex.C.1 has come into existence on 16.12.1989. Therefore, it is quite clear that Ex.C.1 has come into existence even prior to the date of 4(1) Notification and therefore Ex.C.1 can be a basis for fixing the compensation.

10. The Land Acquisition Tribunal has deducted 25% towards fancy charge. It is an admitted fact that under Ex.C.1, a smaller extent has been dealt with. Considering the fact that under Ex.C.1 a smaller extent has been dealt with, the Land Acquisition Tribunal has rightly deducted 25% towards fancy charge.

11. The only gravamen expressed on the side of the appellant is that the lands acquired are nothing but punja lands and no deduction has been given towards development charge by the Land Acquisition Tribunal.

12. Considering the classification of the lands and also considering the purpose for which the same have been acquired by the Land Acquisition Officer/appellant herein, this Court is of the view that 10% deduction towards development charge would be sufficient to meet the ends of justice. After deducting 10% from Rs.4,230/-, it comes to Rs.3807 and the same can be fixed as compensation per cent. With the above modifications, these appeal suits are liable to be allowed in part.

In fine, these appeal suits are allowed in part without cost. The common award passed in L.A.O.P.Nos.2415, 2399, 2401, 2402, 2404, 2405, 2410, 2411, 2412, 2413, 2414, 2416, 2339, 2343, 2344, 2345, 2347, 2349, 2350, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2436, 2443, 2453, 2457, 2491, 2340, 2342, 2346, 2348, 2394, 2396, 2398 and 2427 of 1998 by the Land Acquisition Tribunal/Sub Court, Ponneri is modified as follows:

"The first respondent in each appeal suit/claimant is entitled to get Rs.3807/- (Rupees three thousand eight hundred and seven only) per cent by way of compensation. In other aspects, the common award passed by the Land Acquisition Tribunal is confirmed."

Consequently, connected Civil Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

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ajr

To

The Subordinate Judge,
Ponneri.

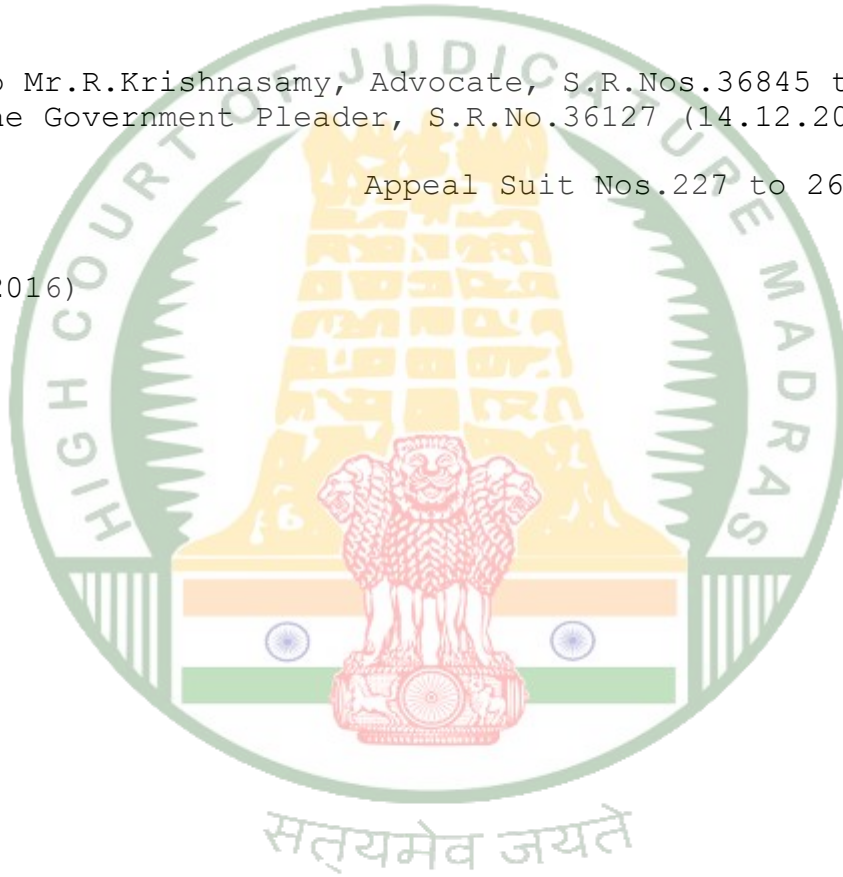
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The Section Officer,
V.R.Section,
High Court, Madras.

+39cc's to Mr.R.Krishnasamy, Advocate, S.R.Nos.36845 to 36883
+1cc to the Government Pleader, S.R.No.36127 (14.12.2016)

Appeal Suit Nos.227 to 265 of 2016

KSJ(CO)
CA(14/11/2016)



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