In the High Court of Judicature at Madras

Reserved on : 16.10.2015 & Pronounced on: 12.4.2016

Coram

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Appeal Suit No.510 of 2015 and M.P.No.1 of 2015

The Land Acquisition Officer,
Special Tahsildar (LA) cum-
Revenue Divisional Officer,
Vellore. ...Appellant/Referring Officer

Vs.

V.R.Annamalai (died)
A.Pushpavathiammal (died)

1.A.Jayapal
2.R.Thenmozhi
3.J.Rathnakumari
4.J.Radhika
5.J.Rajapalani
6.J.Palanivel Rajan

7.The Tamil Nadu Housing Board,
Vellore Housing Unit, Sathuvachari,
Vellore-9.

8.The Tamil Nadu Housing Board,
Phase 5, Residents' Welfare Association,
Sathuvachari, Vellore, rep. by the
President K.Umashankar ...Respondents/Claimants Beneficiary

APPEAL under Section 54 of the Land Acquisition Act, 1894 against the judgment and decree dated 13.12.2012 made in L.A.O.P.No.3 of 2005 on the file of the First Additional District and Sessions Court, Vellore, Vellore District.

For Appellant : Mr.P.Gunasekaran, AGP(AS)
For Respondents 1 and 3 to 6 : Mr.V.Raghavachari
For Respondents 7 and 8 : Mr.S.Vanchinathan

JUDGMENT

This appeal is filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894 questioning the enhancement of the compensation awarded by the Land Acquisition Tribunal.

2. We have heard Mr.P.Gunasekaran, learned Additional Government Pleader (AS) appearing for the appellant, Mr.V.Raghavachari, learned counsel for the respondents 1 and 3 to 6 and Mr.S.Vanchinathan, learned counsel appearing for the respondents 7 and 8.

3. The land of an extent of about 15.25 acres in S.F.Nos.116 and 117 in Sathuvachari Village, Vellore Taluk were acquired by the Government of Tamil Nadu for the formation of the Vellore Neighbourhood Scheme by the Tamil Nadu Housing Board. The Notification under Section 4(1) of the Act was published on 26.9.1984 in the Government Gazette. As per the amended Act namely Act 68 of 1984, the same Notification was issued again on 17.7.1985. Thereafter, the Declaration under Section 6 was published on 2.4.1986. An award in Award No.4 of 1988 dated 28.9.1988 was passed, fixing the compensation payable at Rs.300/- per cent.

4. Aggrieved by the quantum of compensation so fixed, the land owners sought a reference. The reference was taken on file by the First Additional District and Sessions Court, Vellore in L.A.O.P.No.3 of 2005. By an award dated 13.12.2012, the Tribunal enhanced the compensation to Rs.15/- per sq.ft. Therefore, challenging the said enhancement, the Land Acquisition Officer is on appeal.

5. The main grounds, on which, the Tahsildar challenges the enhancement of compensation awarded by the Land Acquisition Tribunal are that the Tribunal ought not to have taken into account the documents filed as Ex.C.2 to Ex.C.6 and that other than these documents, there was no evidence for the Tribunal to enhance the compensation from 0.69 paise per sq.ft. to Rs.15/- per sq.ft.

6. Moreover, the learned Additional Government Pleader (AS) also places reliance upon a judgment rendered by a learned Single Judge of this Court in A.S.Nos.143 and 144 of 2002 dated

22.1.2010, fixing the compensation for identical lands at Rs.850/- per cent.

7. At the outset, it should be pointed out that the reliance placed upon the judgment of the learned Single Judge dated 22.1.2010 in A.S.Nos.143 and 144 of 2002 is misplaced. It is seen from the decision of the learned Judge that the land, which was the subject matter of acquisition in the said appeals, was in a different survey number, though in the same village. The possession of the said lands had been taken in 1988 and the Referring Officer fixed the compensation at Rs.300/- per cent. A reference was made under Section 18 in 1989 itself and the Tribunal, by an award passed in March 1999, enhanced the compensation to Rs.1,000/- per cent. But, the learned Judge took note of a different case in A.S.No.654 of 2002 decided by another learned Judge and arrived the compensation at Rs.850/- per cent. Therefore, we do not accept the reliance placed by the learned Additional Government Pleader (AS) upon the decision of the learned Single Judge in A.S.Nos.143 and 144 of 2002.

8. Coming to the merits of the present case, it is seen that the Land Acquisition Officer took note of the fact that there were 560 sale transactions that had taken place during the period of three years preceding the date of Notification under Section 4(1). Out of them, the data relating to 9 sales was rejected as pertaining to wet lands. The transactions covered by 516 sale deeds were rejected on the ground that they related to the sale of house sites of very small extents. Eventually, the sale at S.No.223 alone was taken into account whereby the land of an extent of 17 1/2 cent in S.F.No.318/4 was sold by a deed dated 22.10.1983 for Rs.5,250/-.

9. The reasonings of the Referring Officer cannot actually be accepted in view of the fact that the distance between the land in S.F.No.318/4 (data sale) and the land in S.F.Nos.116 and 117 was not even taken note of. Moreover, the said sale deed related to a period of nearly two years before the date of the last Notification under Section 4(1). Hence, the rejection by the Tribunal of the reasonings by the Land Acquisition Officer is correct.

10. Before the Tribunal, the claimant examined five witnesses and marked 52 documents. On the side of the Referring Officer, one witness was examined and three documents were marked.

11. Ex.C.7 was a copy of the approved layout and Ex.C.8 was a revised layout plan. Both were produced to show that the area was developing into house sites. Ex.C.19 was the original plan,

for which, approval had been obtained from the Deputy Director of Town and Country Planning in 1982 itself.

12. Several contemporaneous sale deeds were filed as Ex.C.3 to Ex.C.6 and Ex.C.24 to Ex.C.52. Ex.C.2 was a sale agreement dated 2.4.1984, which was registered on 4.4.1984. Under the said agreement, the purchaser had agreed to buy the land for Rs.15/- per sq.ft. Ex.C.11 was a Government Order, which showed that the land was classified as a general industrial zone. Therefore, on the basis of these documents, the Tribunal came to the conclusion that the market value of the land was Rs.20/- per sq.ft., and that if 25% deduction is allowed, the market rate could be fixed as Rs.15/- per sq.ft.

13. We find that the approach adopted by the Tribunal does not appear to be contrary to law, weight of evidence and probabilities of the case.

14. Ex.C.2 is a sale agreement dated 2.4.1984. It is registered as doc. No.1189 of 1984. The sale agreement was between one Mr.Annamalai, Mrs.A.Pushpavathiammal (both since deceased) and the respondents 1 to 6 herein on the one hand and one Mr.Sekar on the other hand. The sale consideration stipulated therein was Rs.15/- per sq.ft.

15. Ex.C.3 is a sale deed dated 7.11.1982. The property covered by the sale deed is a vacant site in S.F..No.496/2A. The extent of the land covered by the said sale deed is 175 sq.ft and the sale consideration was Rs.2,625/-. Similarly, Ex.C.4 is a sale deed dated 7.11.1982. The property covered by the said sale deed is in S.F.No.496/2A. The extent covered by the sale deed is 70 sq.ft., and the sale consideration is Rs.1,050/-. Ex.C.5 is a sale deed dated 10.4.1983. The property covered by the said sale deed is in S.F.No.450/45. The extent covered by the sale deed is 140 sq.ft., and the sale consideration is Rs.5,000/-. Ex.C.6 is a sale deed dated 7.5.1984. The property covered by the said sale deed is in S.F.No.495. The extent covered by the sale deed is 459 sq.ft., and the sale consideration is Rs.7,000/-.

16. The Government Order in G.O.Ms.No.2110 Rural Development and Local Administration Department dated 27.9.1974 filed as Ex.C.11 series shows that Sathuvachari was declared as a local planning area under the provisions of the Tamil Nadu Town and Country Planning Act. By another order in G.O.Ms.No.55 dated 8.4.1983 Housing and Urban Development Department, the Government gave its consent to the Vellore Local Planning Authority for the publication of Notification. The master plan was later published under G.O.Ms.No.399 Housing and Urban

Development Department dated 29.6.1992.

17. The proceedings of the Deputy Director of Town and Country Planning dated 31.3.1982 filed as Ex.C.19 shows that an approval for the layout was granted to certain lands in S.F.Nos.116 and 117. The lands that were the subject matter of acquisition under the proceedings were also in the very same survey numbers. Therefore, it is clear that the Tribunal was right in adopting a value as though the land is a land of house sites.

18. But unfortunately, the Tribunal committed one mistake. Despite the fact that under Ex.C.2, the private respondents themselves agreed to sell the lands in question to a third party for Rs.15/- per sq.ft., the Tribunal adopted a rate of Rs.20/- per sq.ft. This, in our considered view, cannot be accepted. If Rs.15/- per sq.ft. is taken as the market rate and a reduction of 30% is made towards development charges, the rate per sq.ft. would work out to Rs.10/- per sq.ft.

19. Hence, the appeal of the Special Tahsildar is allowed and the award of the Tribunal is modified, fixing the market rate of the land at Rs.10/- per sq.ft instead of Rs.15/- per sq.ft. In all other respects, the award of the Tribunal is confirmed. Consequently, the above MP is closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

To

1.The First Additional District and Sessions Judge, Vellore, Vellore District.

+1 cc to Mr.S.Vanchinathan, Advocate, sr.23392
+1 cc to M/s.V.Raghavachari, Advocate, sr.22667

and MP.No.1 of 2015

ug co
kra 28.04.2016