

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

A.S.No.616 of 2014

and

M.P.No.1 of 2014

The Land Acquisition Officer and
The Special Tahsildar,
Adi Dravidar Welfare Department,
Tirupattur,
Vellore District. Appellant/Referring
Officer

..vs..

Subbramanirao Respondent/Claimant

Appeal Suit filed under Section 54 of the Land
Acquisition Act, against the Judgment and Decree dated
02.03.2005 made in LAOP.No.120 of 2002 on the file of the
Additional District and Sessions Court (FTC), Tirupattur,
Vellore District.

For Appellant : Mr.S.Gunasekar,
Special Government Pleader (AS)

For Respondent : Mr.P.S.Kothandaraman

JUDGMENT

This appeal is directed against the Award passed in
L.A.O.P.No.120 of 2002 on the file of the Additional District
and Sessions Court (Fast Track Court), Tirupattur, for
acquisition of lands to an extent of 0.57.0 hectares,
comprised in S.Nos.8/5, 8/9, C.Peddakallupalli Village,
Vaniyambadi Taluk of Vaniyambadi Sub District, to issue house
patta for the people belongs to the backward class.

2. The facts which are necessary for disposal of this
appeal are as follows:

The Government published Section 4(1) Notification under
the Land Acquisition Act on 28.2.1996 for acquiring the land
measuring to the extent of 0.57.0 hectares (1.14 acre),
comprised in S.Nos.8/5, 8/9, C.Peddakallupalli Village,
Vaniyambadi Taluk of Vaniyambadi Sub District, for the purpose
of issuing house patta for the people belongs to the backward
class. After complying with the procedures, the Land
Acquisition Officer passed an award assessing a sum of

Rs.40,000/- per one acre as compensation. Being aggrieved by such award of the compensation, the claimant/respondent made an application to the Land Acquisition Officer for enhancement of compensation. The land Acquisition Officer referred the matter to the Additional District and Sessions Court, Tirupattur under Section 18 of the Land Acquisition Act.

3. During enquiry before the Additional District Court (Tirupattur), on the side of the claimant, the claimant himself was examined as C.W.1 and Exhibit C1 was marked. On the side of the respondent, R.W.1 was examined and Exhibits R1 to R4 were marked.

4. The trial Court, ultimately enhanced the compensation from Rs.40,000/- per one acre to Rs.1,50,000/- per one acre.

5. Being aggrieved by such enhancement, the appellant has filed the present appeal.

6. Heard Mr.S.Gunasekaran, Special Government Pleader (A.S.) and Mr.P.S.Kothandaraman, learned counsel for the respondent.

7. The point for consideration is as to whether the Reference court was justified in enhancing the compensation from Rs.40,000/- per one acre to Rs.1,50,000/- per one acre.

8. The vehement contention of the learned Special Government Pleader (AS) appearing for the appellant is that a) while fixing the compensation, the trial Court has failed to deduct the developmental charges; b) that the trial Court ought not to have taken into account the sale deed reflecting the sale value of smaller extent of land; c) the trial Court omitted take note of the location of the acquired land, i.e. location in under developed area and thus challenged the order passed by the trial Court enhancing the compensation.

9. The learned counsel for the respondent/claimant contended that even though the trial Court has relied on the sale deed Ex.C1, wherein 1 acre was sold at Rs.2,61,600/-, the trial Court had fixed compensation only at the rate of Rs.1,50,000/- per acre and therefore, the compensation as fixed by the trial Court has to be confirmed.

10. It is not in dispute that the land in question belongs to the claimant and the same has been acquired by the Government to issue patta for the people belongs to the backward class. It is also not in dispute that the trial Court has enhanced the compensation from Rs.40,000/- to Rs.1,50,000/- without making any deduction towards developmental charges. Further, the trial Court, on the basis of the data sale deed Ex.C1, has arrived the value at Rs.2,61,600/- per one acre and thereafter, fixed the market value at Rs.1,50,000/- per acre. Ex.C1, data sale deed

produced by the claimant is very similar to that of the land acquired and on that basis, calculation has been made by the trial Court, but, the trial Court has not deducted the development charges.

11. Therefore, this Court is of the view that 10% developmental charges i.e. a sum of Rs.15,000/- (Rs.1,50,000/- x 10% = Rs.15,000) has to be deducted from the compensation awarded by the trial Court. Accordingly, a sum of Rs.1,35,000/- per acre (Rs.1,50,000 - Rs.15,000 = Rs.1,35,000) is fixed as compensation for the land acquired. In all other respects, the order passed by the trial Court remains the same.

12. In the result, the appeal is partly allowed and the Judgment and decree of the trial Court is modified to the extent indicated above. In the circumstances, there will be no order as to costs.

13. While granting stay, this Court, by an order dated 11.09.2014, passed the conditional order that the petitioner/appellant deposits 50% of the enhanced compensation amount along with proportionate solatium and interest to the credit of L.A.O.P.No.120 of 2002 on the file of the Additional District and Sessions Judge, FTC, Tirupattur, Vellore District, within a period of eight weeks.

13.1. It is not known whether this order has been complied with or not.

13.2. Therefore, the appellant is directed to deposit the entire award amount, less the amount of compensation deposited if any, in accordance with the decree of the trial Court, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is at liberty to withdraw the same.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and
Sessions Judge (FTC)
Tirupattur, Vellore District.

2. The Land Acquisition Officer and
The Special Tahsildar,
Adi Dravidar Welfare Department,
Tirupattur,
Vellore District.

3. The Section Officer, VR Section,
High Court, Madras. 600 104.

+ 1 cc to Mr.P.S. Kothandaraman, Advocate SR.17520
+ 1 cc to the Government Pleader Sr.16806

A.S.No.616 of 2014

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