

4IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2016

CORAM

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

Appeal Suit No.952 of 2008

- 1.The Land Acquisition Officer,
(The Special Tahsildar),
By-pass Road,
Namakkal
- 2.The Divisional Engineer,
National Highways,
Salem ... Appellants/Referring Officer
- Vs
- 1.The Assistant Commissioner,
Hindu Religious Endowment Department,
Salem.
- 2.V.Velappan
Managing Trustee & President,
Trust Board,
Arulmigu Nallayi Amman Thirukovil,
Vallipuram Post,
Namakkal Taluk,
Salem District ... Respondents/Claimant

Prayer:- Appeal suit filed under Section 54 of the Land Acquisition Act against the judgment and decree, dated 29.11.2004, passed by the Additional District Judge, Fast Track Court No.III, Namakkal, in L.A.O.P.No.10 of 2002.

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

For Respondents :Mr.D.Sivakumaran for R2

R1 Dismissed vide order of court
Dated 16.09.2015/30.09.2015

JUDGMENT

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

Challenge in this appeal suit is to the award dated

29.11.2004, passed in L.A.O.P.No.10 of 2002, by the Land Acquisition Tribunal/Fast Track Court No.3, Namakkal.

2. The first appellant herein, as referring officer, has acquired the lands comprised in Survey No.253/2B, ad-measuring 0.83.0 hectares and awarded a total compensation of Rs.74,965/-. Since the claimants are not satisfied with the quantum awarded by the referring officer, a reference has been made under Section 18(1) of the Land Acquisition Act, 1894 and the same has been taken on file in L.A.O.P.No.10 of 2002, on the file of the Land Acquisition Tribunal.

3. The Land Acquisition Tribunal, after considering the divergent evidence available on record, has awarded a compensation of Rs.40/- per sq. feet. Against the award passed by the Land Acquisition Tribunal, the present appeal suit has been preferred, at the instance of the referring officer, as appellant.

4. The learned Additional Government Pleader has strenuously contended that the first appellant/referring officer, after considering various documents and also the purpose for which the lands in question have been acquired, has rightly awarded a compensation of Rs.74,965/-. But the Land Acquisition Tribunal, without considering the contention put forth on the side of the referring officer, has erroneously/excessively fixed Rs.40/- per sq. feet and therefore, the quantum fixed by the Land Acquisition Tribunal, is liable to be modified.

5. Per contra, the learned counsel appearing for the respondents/claimants has also equally contended that the lands in question have been acquired only for widening highways and further the Notification under Section 4(1) of the Act has come into existence on 25.10.1993 and even prior to the Notification, some adjacent lands have been sold for a sum of Rs.250/- per sq. feet and the Land Acquisition Tribunal, after considering the various documents filed on the side of the respondents/claimants, has rightly fixed Rs.40/- per sq. feet and therefore, the award passed by the Land Acquisition Tribunal does not call for any interference.

6. It is an admitted fact that Survey No.253/2B, ad-measuring 0.83.0 hectares, has been acquired for widening highways. It is also equally an admitted fact that the first appellant/referring officer has in aggregate fixed a total compensation of Rs.74,965/-.

7. On the side of the respondents/claimants, Exs.C.1 to C.10 have been filed and most of the documents are the copies of sale deeds, which have come into existence even prior to Sec.4(1) Notification. The Land Acquisition

Tribunal, after considering the various documents filed on the side of the respondents/claimants, has given a specific finding to the effect that the adjacent lands have already been sold for house sites at the rate of Rs.250/- per sq. feet.

8. Considering the facts that on the side of the respondents/claimants various documents have been filed and also considering that the Land Acquisition Tribunal has given a clear finding to the effect that even prior to Sec.4(1) Notification, adjacent lands have been sold for a sum of Rs.250/- per sq. feet, this Court is of the view that the quantum of compensation fixed by the Land Acquisition Tribunal is perfectly correct and the same need not be modified and altogether the present appeal suit deserves to be dismissed.

In fine, this appeal suit is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner,
Hindu Religious Endowment Department,
Salem.

2.The Additional District Judge,
Fast Track Court No.III, Namakkal

3.The Land Acquisition Officer
(The Special Tahsildar),
By-pass Road, Namakkal.

4.The Divisional Engineer,
National Highways, Salem.

1 cc to Mr.D.Shivakumaran, Advocate, sr.29415

1 cc to Government Pleader, sr.29338

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