

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.05.2017

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE N.SESHASAYEE

A.S.Nos.40 to 59 of 2017
and
C.M.P.Nos.1910 to 1948 of 2017

AS No.40 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053 ... Appellant/Referring Officer

Vs.

1.Raniammal ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.40 of 2017: This Appeal Suit has been filed under
Section 54 of the Land Acquisition Act, against the judgment and
decree of the Sub Court, Kancheepuram in LAOP No.1422 of 2008,
dated 25.02.2011

AS No.41 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053 ... Appellant/Referring Officer

Vs.

1.Chitravalli ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.41 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.1423 of 2008, dated 25.02.2011

AS No.42 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Sakkubai

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.42 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.1424 of 2008, dated 25.02.2011.

AS No.43 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Jothi Baskaran

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.43 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.1425 of 2008, dated 25.02.2011

AS No.44 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.C.Parthasarathy

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.44 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.1447 of 2008, dated 25.02.2011.

AS No.45 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Sharmila

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.45 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.1427 of 2008, dated 25.02.2011

AS No.46 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Kethariammal ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2ndRespondent/2nd Respondent

Prayer in AS No.46 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.1428 of 2008, dated 25.02.2011

AS No.47 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053 ... Appellant/Referring Officer

Vs.

1.Hari Prasad ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2ndRespondent/2nd Respondent

Prayer in AS No.47 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.1426 of 2008, dated 25.02.2011.

AS No.48 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053 ... Appellant/Referring Officer

Vs.

1.Ambujammal ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2ndRespondent/2nd Respondent

Prayer in AS No.48 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.21 of 2009, dated 25.02.2011.

AS No.49 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.D.Murugan

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District.

... 2nd Respondent/2nd Respondent

Prayer in AS No.49 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.22 of 2009, dated 25.02.2011.

AS No.50 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Murusamy

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District.

... 2nd Respondent/2nd Respondent

Prayer in AS No.50 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.23 of 2009, dated 25.02.2011.

AS No.51 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Pushpa

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.51 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.24 of 2009, dated 25.02.2011.

AS No.52 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Chithiravalli

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.52 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.25 of 2009, dated 25.02.2011.

AS No.53 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Tmt.Ambujammal ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2ndRespondent/2nd Respondent

Prayer in AS No.53 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.26 of 2009, dated 25.02.2011.

AS No.54 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053 ... Appellant/Referring Officer

Vs.

1.Murugan ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2ndRespondent/2nd Respondent

Prayer in AS No.54 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.27 of 2009, dated 25.02.2011.

AS No.55 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053 ... Appellant/Referring Officer

Vs.

1.D.Munuswamy ... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2ndRespondent/2nd Respondent

Prayer in AS No.55 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.28 of 2009, dated 25.02.2011.

AS No.56 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Pushpa

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District.

... 2ndRespondent/2nd Respondent

Prayer in AS No.56 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.29 of 2009, dated 25.02.2011.

AS No.57 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.Chithiravalli

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District.

... 2ndRespondent/2nd Respondent

Prayer in AS No.57 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.30 of 2009, dated 25.02.2011.

AS No.58 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.S.Radhammal

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.58 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.31 of 2009, dated 25.02.2011.

AS No.59 of 2017 :

The Special Tahsildar (LA),
Chennai City Water Ways Schemes,
Ambattur,
Chennai-600 053

... Appellant/Referring Officer

Vs.

1.S.Radhammal

... 1st Respondent/Claimant

2.The Executive Engineer,
Kosathalaiyur Basin Division W.R.O.,
Public Works Department,
Thiruvallur Division,
Thiruvallur Town & District. ... 2nd Respondent/2nd Respondent

Prayer in AS No.59 of 2017: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Kancheepuram in LAOP No.35 of 2009, dated 25.02.2011.

For Appellant : Mr.P.Gunasekaran
[in all cases] Additional Government Pleader (AS)

For 1st Respondent : Mr.R.Sivakumar
[in all cases]

COMMON JUDGMENT
(Judgment of the Court delivered by N.SESHASAYEE, J)

1.1 This batch of twenty appeals arise from a common order passed under Sec.18 of the Land Acquisition Act, 1894, in a batch of twenty LAOPs, whereunder the learned Sub Judge has enhanced the market value of the property acquired.

1.2 It is likely to be a judgement whose cause-title is longer than its content and reasoning as the only point to be considered is whether the foundational reasoning of the Sub Judge for enhancing the compensation payable by enhancing the market value of the land acquired and the evidentiary material that she has relied are justifiable by evidence available on record.

2.1 To introduce the dispute, the appellant had acquired 11.53.5 h of wet land spread across several survey fields in Thirumudivakkam village in Sriperampudur Taluk for a public purpose. The respondents are some of those whose lands were so acquired. Among them few names are repeated for they owned properties in more than one survey field, but have preferred separate LAOP for individual survey field so acquired.

2.2 In determining the compensation payable the appellant had relied on a sale deed registered as No:281/2003 dated 21-03-2003 of Padappai Sub Registry in which 0.75 acres of wet land in S.F.No: 353/1B was sold for a consideration of Rs.1,12,500/-. This property, in the opinion of the appellant, has matched the features of the land acquired and accepted the price found therein as the just price for payment of compensation to the property acquired. The rate per cent was worked out by the appellant at Rs.1,500/-, and this was uniformly applied to determine the compensation payable to all the owners of the land acquired.

3. Aggreived by the same the respondents had sought enhancement of compensation and the appellant had referred the matter under Sec.18 of the Land Acquisition Act to the Sub Court, Kancheepuram. All the twenty petitions were jointly tried and disposed of by the common order now impugned before this court.

4. In her order, the learned Sub Judge has found from the sale statistics of the lands that the appellant had provided regarding properties situated in the vicinity of the acquired lands and had found that the lands were sold anywhere from Rs.22,000/- to Rs.58,000/-. The learned Sub Judge then opted for a sale deed under which plot in S.F.No:353/1A was sold for Rs.58,871/-, and since the same was found to be a house site, the learned Sub Judge reduced the price by 50% and determined the market price of the property at Rs.29,435/-, since the property acquired is a wet land and not a house site.

5. While the learned Special GP has vehemently argued that the market value as determined by the court below is excessive and that it should not have relied on the sale deed that it had ultimately relied on, he could not explain how the lands involved in the sale statistics that the appellant had made available before the Court below is different from the land acquired. Also, it was not pointedly explained how the sale deed that the learned Sub Judge had relied on is unreliable for the purpose of determining the market value of the property acquired. The property dealt with under the sale deed that the appellant had relied on for passing the award is one comprised in S.F.No: 353/1B. And, the property dealt with by the learned Sub Judge was a plot in the next adjacent survey field in S.F.No: 353/1B. The rates however, between the two vary by manifolds. While expropriating a citizen of his property under the power of eminent domain, he should be paid the highest price that his property might fetch. On this score, the Sub Judge's approach cannot be faulted. Second, she has also discounted the price of the land covered under the sale deed by 50% and adjusted it towards development charges that might be involved in converting a wet land into a housing plot. This also stands to reason.

6. In the end, there is no material available on record to interfere with the order of the Court below and accordingly this entire batch of appeals are dismissed and the award of the court below dated 25.02.2011 is hereby confirmed. No costs. Consequently, connected CMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ds
To

The Subordinate Judge,
Kancheepuram.

Copy To

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

+20cc's to Mr.J.Ram, Advocate, S.R.Nos.38174 to 38193
+1cc to the Government Pleader, S.R.No.38222

AS Nos.40 to 59 of 2017 and
CMP Nos.1910 to 1948 of 2017

SSI (CO)
CA (30/06/2017)

<https://hcservices.ecourts.gov.in/hcservices/>