IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 08.12.2017
Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

A.S.Nos.62 and 66 of 2011 &
M.P.Nos.1 & 2 and 1 & 2 of 2011
and
Cross Objection Nos.85 & 86 of 2017

A.S.No.62 of 2011

The Special Tahsildar, (LA),
SIPCOT Unit,
Sriperumbudur Taluk,
Kancheepuram District.
.. Appellant /Referring Officer

Vs.

1.Andalammal .. 1st Respondent/Claimant

2.The Managing Director,
SIPCOT having its office
at Egmore, Chennai-8. ..2nd Respondent/Beneficiary

Prayer in A.S.Nos.62 of 2011: Appeal filed under section 54 of Land Acquisition Act against the judgment dated 14.11.2007 in L.A.O.P.No.160 of 2003 on the file of the Additional District Judge, FTC V, Chengalpattu at Thiruvallur.

For Appellant	:	Mr.P.Gunasekaran Additional Government Pleader
For 1st Respondent	:	Mr.C.Chandrasekaran
For 2nd Respondent	:	Mr.Ramesh Venkatachalapathy

A.S.No.66 of 2011

The Special Tahsildar, (LA),
SIPCOT Unit,
Sriperumbudur Taluk,
Kancheepuram District. .. Appellant / Referring Officer

Vs.

1.P.Devaraj

2.Balaram .. 1st & 2nd Respondent/Claimants

3.The Managing Director,
SIPCOT having its office
at Egmore, Chennai-8. .. 3rd Respondents/Beneficiary

Prayer in A.S.Nos.66 of 2011: Appeal filed under section 54 of Land Acquisition Act against the judgment dated 14.11.2007 in L.A.O.P.No.1575 of 2003 on the file of the Additional District Judge, FTC V, Chengalpattu at Thiruvallur.

For Appellant : Mr.P.Gunasekaran
Additional Government Pleader

For 1st & 2nd Respondents: Mr.C.Chandrasekaran
For 3rd Respondent : Mr.Ramesh Venkatachalapathy

Cross Objection No.85 of 2017

Andalammal .. Cross Appellant

Vs.

1. The Special Tahsildar, (LA),
SIPCOT Unit,
Sriperumbudur Taluk,
Kancheepuram District.

2.The Chairman and Managing Director,
SIPCOT, 19A, Rukmani Lakshmiipathy Road,
Egmore, Chennai-8. .. Respondents

Cross Objection No.85 of 2017: Cross Objection filed under order 41 Rule 22 of CPC to enhance and refix the market value of the land acquired by the appellant from Rs.3,500/- per cent which came to be passed by the Decree and Judgment of the learned Additional District Judge, Fast Track Court-V , Chengalpet at Tiruvallur in L.A.O.P.No.160 of 2003 on 14.11.2007 to Rs.10,465.40 per cent along with statutory benefits as provided under the Land Acquisition Act, 1894.

For Cross Appellant : Mr.C.Chandrasekaran
For 1st Respondent : Mr.P.Gunasekaran
Additional Government Pleader
For 2nd Respondent : Mr.Ramesh Venkatachalapathy

Cross Objection No.86 of 2017

1. P.Devaraj
2. Balaram .. Cross Appellants

Vs.

1. The Special Tahsildar, (LA),
SIPCOT Unit,
Sriperumbudur Taluk,
Kancheepuram District.

2.The Chairman and Managing Director,
SIPCOT, 19A, Rukmani Lakshmiipathy Road,
Egmore, Chennai-8. .. Respondents

Cross Objection No.86 of 2017: Cross Objection filed under Order 41 Rule 22 of CPC to enhance and refix the market value of the land acquired of the appellant from Rs.3,500/- per cent which came to be passed by the Decree and Judgment of the learned Additional District Judge, Fast Track Court-V , Chengalpet at Tiruvallur in L.A.O.P.No.1575 of 2003 on 14.11.2007 to Rs.10,465.40 per cent along with statutory benefits as provided under the Land Acquisition Act, 1894.

For Cross Appellants : Mr.C.Chandrasekaran

For 1st Respondent : Mr.P.Gunasekaran
Additional Government Pleader

For 2nd Respondent : Mr.Ramesh Venkatachalapathy

COMMON JUDGMENT

[Judgment of the Court was made by P.VELMURUGAN, J.]

The above appeals and cross objections arise under section 54 of the Land Acquisition Act, 1894 challenging the enhancement of award by the Land Acquisition Tribunal.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant and Mr.C.Chandrasekaran, learned counsel appearing for the respondents/cross objectors.

3. By an order in G.O.Ms.No.61 Industries dated 24.2.1997, the Government of Tamilnadu accorded administrative sanction for the acquisition of a vast land lying in a composite block measuring about 935.52.0 hectares in the villages of Sriperumbudur, Pondur, Araneri, Mambakkam, Thirumangalam, Santhavellore, Sirumangadu in Sriperumbudur Taluk, Kancheepuram Taluk.

4. A notification under section 4(1) of the Act was published in the Tamil Nadu Government Gazette on 22.6.1998. Thereafter, the land acquisition officer conducted an award enquiry.

5. In the award enquiry, he gathered the sales statistics from the office of the Sub Registrar, Sriperumbudur for the period from 14.7.1997 to 15.7.1998. There were 55 sales which had taken place during the said period. Out of them, the land acquisition officer rejected all but, one. Under the sale deed dated 22.1.1998, the land of an extent of about 1.7 acres had been sold at the rate of Rs.400/- per cent. Therefore, the land acquisition officer fixed the compensation at Rs.400/- per cent.

6. When the land owners sought reference under section 18 of the Act, the Additional District Judge (FTC-V), Chengalpet at Tiruvallur passed a set of awards in Award Nos.1 of 1998, 4 of 1998, 2 of 1999, 1 of 2000, 2 of 2000, 1 of 2001 and 6 of 2001 on various dates arriving at a compensation of Rs.3500/- per cent. Aggrieved by the said enhancement of compensation, the land acquisition officer/Special Tahsildar is on appeals.

7. When the matter came up for hearing, the learned counsel appearing for the respondents/cross objectors submitted that there are covered judgments of this Court fixing the market value at Rs.10.465.40/- per cent in respect of the lands in the same village acquired under the very same notification and which formed the subject matter of the same award. Since the respondents / cross objectors are also similarly placed persons, the same benefit should be given to them also.

8. On a perusal of the judgment referred to by the learned counsel, it is found that the Division Bench of this Court in A.S.Nos.145 of 2011 by following the judgment of this Court in A.S.No.752 to 788 of 2010, dated 3.8.2012 and A.S.No.67 of 2011, dated 11.10.2013, fixed the land value. Though the SIPCOT took the matter on appeal before the Supreme Court, the Supreme Court refused to condone the delay. The court fixed the market value payable at Rs.10.465.40/- per cent. The relevant paragraphs of the said judgment is extracted hereunder:-

> "7. It appears that in two batches of appeals filed under section 54, two learned Judges of this court have enhanced the compensation payable to Rs.10,465.40. In one set of appeals viz., A.S.No.752 to 788 of 2010, disposed of on 3.8.2012 by S.Palanivelu, J, the compensation as awarded by the reference Court was enhanced by this court by invoking the provisions of Order XLI Rule 33 of the Code of Civil Procedure. Such enhancement was on the basis of Ex.C4, which was overlooked by the reference Court, but, the reference Court had taken note of Ex.C3. The operative portion of the order of the learned Judge

dated 3.8.2012 passed in A.S.Nos.752 to 788 of 2010 reads as follows:-

'5. The learned Fast Track Court Judge while referring Exs.C3 and C4 has recorded a finding that they are bona fine transaction, that there is no oral or documentary evidence putforth repudiating the same on the side of the respondents. It is also admitted therein that the relevant land also fall withing the limits of Thirumangalam which are very nearer to acquired lands. Even they stated so, the trial Court has observed that Ex.C.3 is relied for fixing the market value of the acquired lands, there are certain drawbacks in the survey numbers mentioned in this document is not within the nearer land, it is away from the data land chosen by the acquiring officer. In the considered view of this Court, even though it is somewhat away from the data land, it is very nearer to the village Santhavasal in which the acquired lands are situate. There is no discussion in the judgment of the trial Court with regard to Ex.C.4. The judgment is silent about the particulars of value contained in Ex.C.4. Had the Court below appreciated Ex.C.4. in a proper perspective, then it would have a definite conclusion. The learned counsel for the claimants would place reliance upon a Full Bench decision of Supreme Court in 1964 (1) MLJ Reports (SC) 45 [Sri Rani M. Vijayalakshmamma Rao Bahadur, Ranee of Vuyyur v. The Collector of Madras.] wherein it is held that while the sales of the similar lands in the locality are considered for fixing the market value of the land, highest value fetched should be considered and not the average of the sale deeds should be taken.

6. Applying the ratio of the Supreme Court to the present case, even though there were documents in Exs.C-3 and C-4 are available there is no reason to reject nor ignore Ex.C.4 which shows the higher value than Ex.C.3. In the above said circumstances, I am of the considered opinion that there is no impediment in accepting the value as contained in Ex.C-4.

7. The learned Special Government Pleader appearing for the appellants would submit that as per the decisions of this Court, a deduction 53% towards developmental charges may be

deducted and it was deducted in the like cases by the Division Bench of this Court on earlier occasions. But the learned Additional Government Pleader would place reliance upon two decisions of Supreme Court where the lands were acquired for the same purpose as in the case but in the date of notification were under issue. The Honourable Supreme Court in Civil Appeal No (s).7852-7853 of 2011 arising out of SLP (C) No (s).24832-24833/2010, decided on 12.9.2011 has observed that the developmental charges of 33% can be deducted as against 53% as ordered by high Court. I am following the above said decision and concludes that a deduction of 33% may be ordered towards developmental charges in the enhanced compensation.

8. In the result, the appeals are disposed of, fixing the market value of the acquired lands of the claimants at Rs.15,620/- per cent in which 33% shall be deducted towards developmental charges. The first respondent is entitled to receive the balance of compensation from the appellant along with usual statutory benefits.'

8. Yet another appeal in A.S.No.97 of 2011 came up before R.S.Ramanathan, J alongwith a cross objection in Cross Objection No.18 of 2013. The learned Judge followed the orders dated 3.8.2012 passed in A.S.Nos.752 to 788 of 2010. This is for the reason that when SIPCOT, the requisitioning authority took the matter on appeal to the Supreme Court, the Supreme Court refused to condone the delay. The applications for condonation of delay in C.C.No.13281 to 13317 of 2014 were dismissed by the Supreme Court on 25.8.2014. Though the Special Leave Petitions arisen out of the judgment of S.Palanivelu, J were dismissed only on the ground of delay, neither the requisitioning body nor the State has chosen to file appeals against the orders of R.S.Ramanathan, J and the period of limitation has already expired."

9. Therefore, the position as on today is that there are three different judgments of two learned Judges and a Division Bench of this Court fixing the market rate at Rs.10,465.40 per cent, in respect of the lands in the same village acquired under the same notification and which formed the subject matter of the same award.

10. In view of the above, the appeals are dismissed and cross objections are allowed by modifying the award of the learned additional District Judge, (FTC-V), Chengalpet at Tiruvallur, fixing the compensation at Rs.10,465.40 per cent. The claimants are entitled to interest as well as solatium as per the statutory provisions and law laid down by the Supreme Court. The Additional Government Pleader is entitled to separate fee for each case. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

r n s/tsh

To

1. The Additional District Judge, FTC V,
Chengalpattu at Thiruvallur.

2. The Chairman and Managing Director,
SIPCOT, 19A, Rukmani Lakshmiipathy Road,
Egmore, Chennai-8.

+3cc's to Mr.Chandrasekaran, Advocate SR.No.87649
+1cc to Government Pleader SR.No.87668

A.S.Nos.62 and 66 of 2011 &
M.P.Nos.1 & 2 and 1 & 2 of 2011
and
Cross Objection Nos.85 & 86 of 2017

TM(CO)
GN(21/03/2018)