

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.11.2017

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

A.S.Nos.524 to 526 of 2017, 1120 and 1122 of 2015

and

CMP.Nos.17123 to 17126, 9641, 9642, 8925 and 8926 of 2017

A.S.No.524 of 2017

The Land Acquisition Officer and
Special Tahsildar (LA)

Chennai Metro Rail Limited

Chennai Unit - II, Harini Towers

No.7, Conran-Smith Road

Gopalapuram

Chennai - 86.

... Appellant in A.S.No 524 to 526/2017

& 1st Respondent in A.S.No.1120 &

1122/2015/1st Respondent in L.A.O.P. No 51 &
52/2012.

Versus

1. Anna Joseph ...1st Respondent in A.S.No.524/2017/Claimant
in L.A.O.P.No 50/2012.

2. John Joseph

3. Arun Kurian Joseph ...1st & 2nd Respondent in A.S.No.525/2017
& Appellants in A.S.No. 1122/2015 /
Claimants in L.A.O.P. No 51/12.

4. R. Shyamala ...1st Respondent in A.S.No.526/2017 &
Appellant in A.S.No.1120/2015/
Claimant in L.A.O.P. No 52/2012.

5. Chennai Metro Rail Limited
Harini Towers
No.7, Conran-Smith Road
Gopalapuram
Chennai.

.. 2nd Respondent in

A.S.No.524,526/2017 & 1120 & 1122/2015

& 3rd Respondent in A.S.No.525/2017/2nd

Respondent in L.A.O.P. No 50,51, & 52/2012.

Appeal suits have been filed under Section 54 of the Land Acquisition Act, 1894 against the award dated 16.07.2015 made in LAOP.No.50 of 2012 51 & 52/2012, 52/2012 & 51/2012 respectively on the file of the learned VI Assistant Judge, City Civil Court, Chennai.

For Appellant in
A.S.Nos.524 to 526 of 2017 : Mr.P.Gunasekaran
and 1st Respondent in Addl. Govt. Pleader
A.S.No.1120 & 1122 of 2015

For 1st Respondent in
A.S.Nos.524 to 526 of 2017 : Mr. K.Doraisamy
and 2nd Respondent in Senior Counsel
A.S.No.525 of 2017 and for
Appellant in A.S.Nos. Mr.Istiyag Ahamed
1120 & 1122 of 2015

For 2nd Respondent in
A.S.Nos.524 and 526 of 2017 : Mr.Vijaynarayan
and 3rd Respondent in Advocate General
A.S.No.525 of 2017 and for
2nd Respondent in A.S.Nos. M/s.Jayesh Dolia
1120 & 1122 of 2015

COMMON ORDER

(Order of the Court was delivered by P.VELMURUGAN.J.,)

All the above appeals are arising out of a common award dated 16.07.2015 passed by the learned VI Assistant Judge, City Civil Court, Chennai, in LAOP.Nos.50, 51 and 52 of 2012.

2. Since all the appeals are arising out of a common award and the parties to the appeals are also one and the same, all the appeals are taken up together and are disposed of by this common Judgment. For the sake of convenience, the parties herein are referred as arrayed before the reference Court in the LAOPs.

3. The brief facts of the cases are that the claimants are the absolute owners of subject lands in Block No.32 in T.S.Nos.7, 6 and 5 respectively and the subject lands were acquired by the Government, after issuing 4(1) notification dated 06.11.2009 and newspaper publication dated 12.11.2009. The claimants claimed compensation at Rs.12,000/- per sq.ft. After enquiry, the Land Acquisition Officer passed the award and

taking into account the prevailing market value, fixed the compensation at Rs.1,568/- per sq.ft. for the lands acquired by the Government. One among the award is for subject matter land also. Since the claimants objected to compensation, the Land Acquisition Officer referred the matter to reference Court / City Civil Court for fixing the compensation. Thus, reference was taken on file in the VI Assistant Judge as LAOP Nos.50, 51 and 52 of 2012. The reference Court, after considering the facts, has enhanced the compensation per sq.ft from Rs.1568/- to Rs.5000/- for the subject matter of the land. Aggrieved by the said award passed by the reference Court, the Government has preferred Appeals in A.S.Nos.524 to 526 of 2017 stating that the compensation fixed by the Reference Court is excessive. Similarly, the claimants in LAOP Nos.51 and 52 of 2012 preferred Appeals in A.S.No.1120, 1122 of 2017 for enhancement of compensation.

4. Heard the learned counsel for the claimants and also the learned counsel for the State.

5. Learned counsel for the claimants would submit that the market value fixed by the Land Acquisition Officer is low. 4(1) notification is dated 06.11.2009. But the document relied on by the reference Court is for the year 2008. The market value of the subject land was more than Rs.8000/- per sq.ft. The second respondent has acquired lands for its project at Nehru Park and the Court has fixed market value per sq.ft at Rs.12,000/- for the said lands. Whereas the subject matter of the land is within 3 km from the aforesaid lands. Therefore, the reference Court should have fixed minimum Rs.8000/- per sq.ft. But without considering the materials placed before the reference Court, the reference Court has fixed Rs.5000/- per sq.ft. The award passed by the reference Court does not reflect just and fair compensation. Therefore, it has to be enhanced.

6. The learned counsel for the Government would submit that the Land Acquisition Officer while fixing the market value has taken into consideration several documents and among that only he has taken Ex.R4 and accordingly, fixed the market value of the subject land and therefore, at the relevant point of time, the market value was not more than Rs.1568/- as stated by the claimants. The Land Acquisition Officer has fairly considered all the documents in and around the place during the relevant period, whereas the reference Court failed to consider the documents and without any basis, enhanced the compensation to Rs.5000/- per sq.ft. Therefore, the market value fixed by the reference Court is without any valid documents and it is liable to be set aside and the award passed by the Land Acquisition Officer has to be confirmed.

7. Considered the rival submissions made by the learned counsel on both sides and perused the records placed before this Court.

8. The subject lands of the claimants were acquired by the Government for CMRL Project, after issuing 4(1) notification dated 06.11.2009 and publication made in the newspaper dated 12.11.2009. The claimants claimed compensation at Rs.12,000/- per sq.ft. After enquiry, the Land Acquisition Officer fixed the market rate at Rs.1,568/- per sq.ft. Since the claimants objected the award, the Land Acquisition Officer referred the matter to reference Court and the reference Court, after considering the facts, has enhanced the market rate from Rs.1568/- to Rs.5000/- per sq.ft. Aggrieved by the said award passed by the reference Court, the Government as well as the claimants have preferred the above appeals.

9. Both the counsel would submit that regarding the very same project, the Government has acquired several lands of other persons also and awards have also been passed by the reference Court for those lands. Some of the claimants in those cases filed Appeals before this Court in A.S.Nos.222 to 224 of 2016, wherein the Division Bench of this Court, vide order dated 14.06.2017, had set aside the award of the reference Court and remanded back the matter to the reference Court for passing award afresh.

10. Since the subject lands are covered under the very same notification under Section 4(1) of the Land Acquisition published in Tamil Nadu Government Gazette No.285, Part II Section 2 dated 06.11.2009, in order to avoid conflicting of decisions, these matters are also ordered to be remanded before the reference Court for fixing the market rate.

11. Accordingly, all the above five appeals are allowed and the award passed by the learned VI Assistant Judge, City Civil Court, Chennai, in LAOP.Nos.50, 51 and 52 of 2012 dated 16.07.2015 is set aside. The matters are remanded back to the reference Court for passing fresh award in LAOP.Nos.50, 51 and 52 of 2012. The reference Court is directed to permit the claimants to mark additional documentary evidence and afford opportunity to them to examine and cross-examine the witnesses and thereafter, shall pass appropriate award thereof on merits, in accordance with law. Such an exercise shall be completed by the reference Court within a period of two months from the date of receipt of a copy of the judgment in these appeals. The respondent in LAOP.Nos.50, 51 and 52 of 2012 is directed to deposit 50% of the enhanced amount in each case, as awarded by the reference Court within a period of six weeks from today and on such deposit, the claimants are entitled to withdraw 50% of

the deposited amount. The remaining 50% of the deposited amount shall be deposited within a period of 15 days from the date of deposit, in any one of the Nationalised Bank. Consequently, connected Miscellaneous Petitions are closed. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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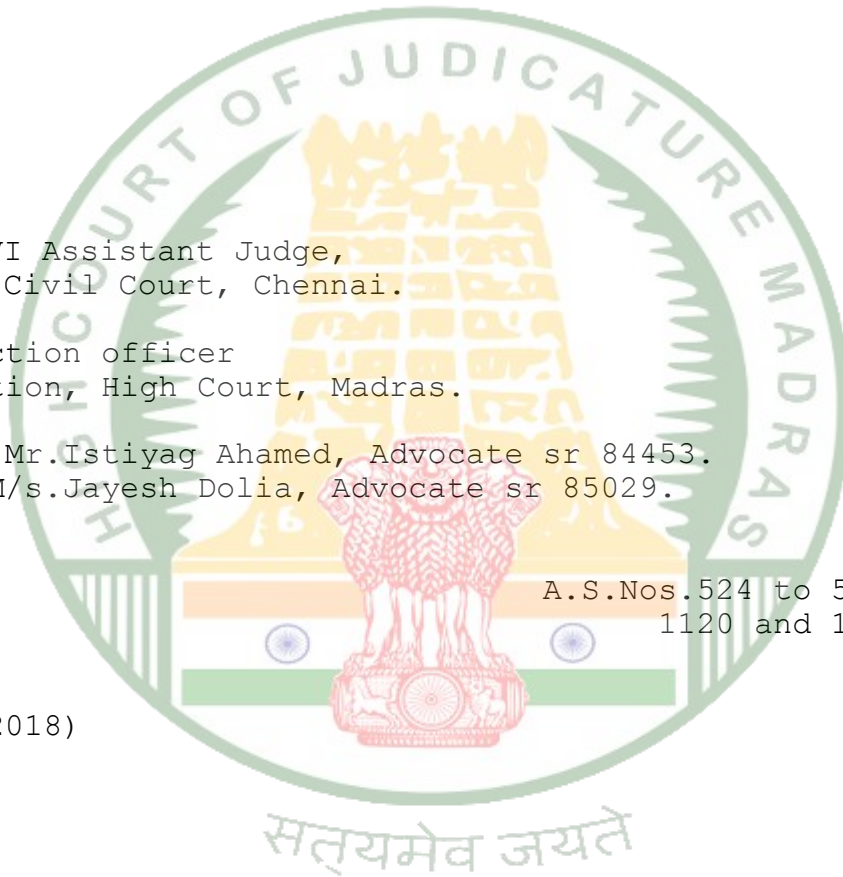
1. The VI Assistant Judge,
City Civil Court, Chennai.
2. The Section officer
VR Section, High Court, Madras.

+2 Ccs to Mr. Istiyag Ahamed, Advocate sr 84453.

+1 CC to M/s. Jayesh Dolia, Advocate sr 85029.

A.S.Nos. 524 to 526 of 2017,
1120 and 1122 of 2015

TM (CO)
SP (25/01/2018)



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