

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02..02..2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

Appeal Suit No.383 of 2015

and

M.P.No.1 of 2015

1.Union of India,

Rep. by The Secretary to Government
of Puducherry (Rev)
Puducherry.

2.The Deputy Collector (Rev) North-cum-
Land Acquisition Officer,
Puducherry.

... Appellants/respondents

-Versus-

Present Trustee
Sri Kalatheeswara Varadarajaperumal
Devasthanam,
Puducherry.

... Respondent/Claimant

Appeal under Section 54 of the Land Acquisition Act against
the award dated 24.03.2015 made in L.A.O.P.No.9 of 2010 by the
learned III Additional District Judge, Puducherry.

For Appellant : Mr.J.Kumaran,
Government Advocate [Puducherry]

For Respondent : Mr.P.Suresh

JUDGMENT

(Judgement of the Court was delivered by S.NAGAMUTHU, J.)

This appeal has been filed challenging the award dated 24.03.2015 passed by the learned III Additional District Judge, Puducherry, in L.A.O.P.No.9 of 2010 wherein, the learned Judge has enhanced the compensation amount payable to the respondent for the land acquired for a public purpose under the Land Acquisition Act. The land acquisition officer in Award No.1 of 1999 dated 07.09.2009, fixed the marked value of the land acquired at Rs.400/- per square feet and accordingly passed the award. Not satisfied with the same, the respondent herein requested for reference. Accordingly, a reference under Section 18 of the Land Acquisition Act was made to the III Additional District Judge, Puducherry. In that reference, oral as well as documentary evidence were let in by both parties. On the side of the claimant/ respondent herein, P.W.1 was examined and Ex.P1 to P3 were marked. Ex.P.1 is the sale deed dated 10.11.2006; Ex.P.2 is the another sale deed dated 05.02.2007; and Ex.P.3 is the attested copy of the circular order issued by the Department of Hindu Religious Institutions, Government of Puducherry. On the side of the respondent/State, Mr.S.Sankar, the then Revenue Officer (Land Acquisition) was examined as R.W.1 and Ex.R1 to R4 were marked. Ex.R.1 is the award proceedings in Award No.1 of 2009 dated 10.11.2006; Ex.R.2 is the sale data relating to the period 11.10.2006 to 24.10.2006; Ex.R3 is the Topo Sketch; and Ex.R.4 is the sale particulars. Having considered all the above, the learned III Additional District Judge, fixed the market value of the property acquired at Rs.600/- per square feet and accordingly directed payment of compensation including 30% of solatium; 12% of additional market value as per Section 23(1) of the Land Acquisition Act from the date of 4(1) Notification to the date of award besides statutory interest as per Section 28 of the Land Acquisition Act. The State is aggrieved over the same. That is how, the appeal suit is before this court.

2. We have heard the learned Government Advocate (Puducherry) appearing for the appellants/respondents and the learned counsel appearing for the respondent/claimant and we have also perused the records carefully.

3. A perusal of the record would go to show that Exs.P.1 and P.2 are relevant documents showing the sale transactions in respect of the lands situated somewhere near the acquired land. As per Ex.P.1-sale deed, the market value of the land was Rs.520.83 per sq. ft. whereas under Ex.P.2-sale deed, the market value of the property covered thereunder was Rs.546.75 per sq. ft. The trial court has taken these two documents into

consideration.

4. In this regard, we may refer to a judgement of the Hon'ble Supreme Court in Union of India v. Raj Kumar Baghal Singh (Dead) through LRs, 2014 SAR (Civil) 1010 wherein the Hon'ble Supreme Court, among other things has held that even post notification instances can also be taken into account provided they are very proximate and genuine and the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development aspects. Applying the same yardstick, if we look into the facts of the present case, Ex.P.1 came into being one month after the publication of 4(1) Notification and Ex.P.2 came into being three months after the publication of 4(1) Notification. These two transactions were very proximate to the publication of 4(1) Notification. There is also no evidence that these two sales have been created for the purpose of this case. Therefore, we are of the view that the market value fixed in Ex.P.1 and Ex.P.2 are genuine. But, at the same time, we cannot lose sight of the location of the properties covered under Ex.P.1 and Ex.P.2. From the toposketch it is clear that the acquired land is very nearer Kamaraj Salai, which is the main road running from Nehru Street, whereas the lands covered under Exs.P.1 and P.2 are at a considerable distance. Having regard to the fact that the acquired land is in prime locality, the value of the land covered in Exs.P.1 and P.2, the trial court was right in fixing the market value at Rs.600/- per square feet. However, the learned counsel for the appellant would submit that the trial court ought to have given deduction towards development charges. But, it is in evidence that the area is already developed and it does not require any further development except making some fine developments. In our considered view, having regard to the same, allowing Rs.20/- per sq. ft. deduction towards development charges would meet the ends of justice. The respondent would, therefore, be entitled for enhanced compensation in the following terms:-

Extent of land 00-62--00 Hectares (R.S.No.83/1)
(62 Acres = 66736.18 sq. ft.)

- WEB COPY
- (a) Market value of the : Rs.600.00 per sq.
acquired land ft.
- (b) Less Rs.20/- per square : Rs.580.00 per sq.
feet towards further ft.
development charges from
the market value of
Rs.600/-

- (c) Market value of the : Rs.3,87,06,984.40
acquired land [(a) - (b)
in other words [Rs.600 -
Rs.20 X 66736.18]
- (b) 30% solatium as per : Rs.1,16,12,095.30
Section 23(2) of the Land
Acquisition Act
- (c) 12% of the Additional : Rs.1,35,27,291.54
market Value as per
Section 23(1) of the Land
Acquisition Act from the
date of 4(1) Notification
to the date of Award
(i.e.,) (1063 days)
- (d) The respondent/claimant : As per Section 28
would also be entitled for of the Land
statutory interest Acquisition Act

5. In the result, the appeal suit is partly allowed and the award and decree dated 24.03.2015 passed by the learned III Additional District Judge, Puducherry, in L.A.O.P.No.9 of 2010 is hereby modified to the extent indicated above and in other respects the award and decree shall stand unaltered. Having regard to the claim made by both parties, they shall bear their own costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

kmk

To

1.The III Additional District Judge, Puducherry, Puducherry
Union

Territory.

Copy to:

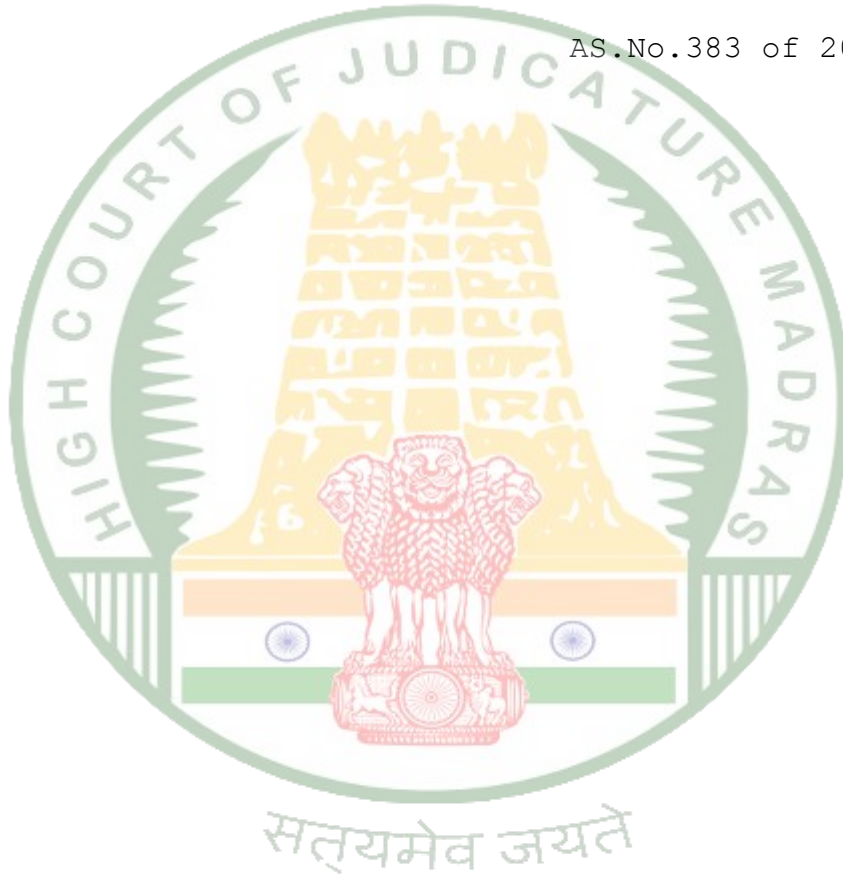
2.The Secretary to Government of Puducherry (Rev),
Puducherry.

3.The Deputy Collector (Rev) North-cum-Land Acquisition Officer,
Puducherry.

+2cc to Mr.P. Suresh, Advocate, S.R.No.6707
+1cc to the Government Pleader, S.R.No.6772

ev(CO)
md(20/04/2017)

AS.No.383 of 2015



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