

Judgment Reserved on: 18.04.2017

Judgment Pronounced on: 25 .04.2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.04.2017

Coram:

The Hon'ble Mr.Justice N.SATHISH KUMAR

Appeal Suit Nos.518 and 519 of 2011
and
M.P.Nos.1+1 of 2011 and 1+1 of 2012

The Special Tahsildar (LA),
Outer Ring Road Project,
Chennai Metropolitan
Development Authority,
Egmore, Chennai - 600 008
Now office at Koyembedu
Wholesale Market Complex,
Chennai.

.. Appellant in both Appeals

Versus

1.Shanthi .. 1st Respondent in A.S.No.518/2011

1.Sasirekha .. 1st Respondent in A.S.No.519/2011

2. The Member Secretary,
Chennai Metropolitan
Development Authority,
Egmore, Chennai-600 008. .. 2nd Respondent in both Appeals

Appeal Suits filed under Section 54 of the Land Acquisition Act, against the common Judgment and decree of the Additional District Judge, Fast Track Court No.II, Poonamallee in L.A.O.P.Nos.6 of 2003 and 38 of 2004 dated 15.11.2010.

For Appellant .. Mr.P.Gunasekaran,
Addl. Govt. Pleader (AS)

For Respondents .. Mr.K.Ravi for R1 in A.S.519/11
Mr.C.Johnson
Standing Counsel
for CMDA for R2 For both ASs.

COMMON JUDGMENT

These appeals are filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894, challenging the enhancement of compensation granted by the Additional District Judge, Fast Track Court-II, Poonamallee.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant, Mr.K.Ravi, learned counsel appearing for the first Respondent/claimants and Mr.C.Johnson, learned Standing Counsel appearing for the second Respondent/Chennai Metropolitan Development Authority.

3. By G.O.Ms.No.381, Housing and Urban Development Department dated 25.5.1993, the Government of Tamil Nadu has approved proposals for development of Outer Ring Road between the New Mahabalipuram Road and TVTR-Panjetti-Ponneri (TPP) Road on the B.O.T. Concept for a distance of 62 Kms under Phase-I of the Project.

4. In pursuance to the said Government Order, the Member-Secretary, Chennai Metropolitan Development Authority, Chennai, has sent a requisition with Land Plans Schedule Village, for the acquisition of Dry and Manavari lands in Nemilicheri Village, Poonamallee Taluk, Tiruvallur District, for formation of Outer Ring Road Phase-I.

5. A Notification under Section 4(1) of the Land Acquisition Act was published in the Government Gazette on 5.1.2000 and it was published in the newspapers on 05.01.2000 and in the locality on 25.01.2000. Enquiry under Section 5A of the Act was conducted on 10.03.2000, 13.03.2000 and 14.03.2000. Draft Declaration under Section 6A of the Act was published in the Government Gazette on 17.01.2001 and it was published in the newspapers on 25.01.2001.

6. The lands of the extent of 8.23.5 hectares in S.F.Nos. 93/1B2, 93/2B, 94/1A2, 94/1B2, 94/2B, 95/1B, 95/2B, 96/1A2, 96/1B2, 96/2, 97/2A1A2, 97/11B, 97/3B, 97/4, 97/5, 97/6, 97/8, 97/9, 97/10, 97/13, 103/2A1A2, 103/2A1B, 103/2A1C, 104/1A1B, 104/2A1A, 104/3A1B, 104/2A2, 104/2B, 104/3, 104/4, 104/5, 104/6, 104/7, 104/8, 104/9, 104/10, 104/11, 104/12, 104/13, 104/13, 104/14, 104/15, 104/16, 104/17, 104/18, 105/1A, 105/1B, 105/2, 106/1, 106/2A, 106/2B, 159/2A2, 159/2B2, 159/3A2, 159/3B1B, 161/1B, 162/2, 163/1, 163/2A, 163/2B, 164/1A2B, 164/2B2, in Nemmilicherry Village, Poonamallee Taluk, Tiruvallur District, were acquired by the said Notification. The Land Acquisition Officer has passed an Award in Award No.1/2002 dated 31.01.2002, fixing the value of the acquired land as Rs.670/- per cent.

7. Before passing the award, the Land Acquisition Officer took note of about 387 sale transactions which had taken place during the period of three years immediately preceding the date of Notification under Section 4(1). Out of them, one transaction was rejected on the ground that the said transaction related to combined sales far away from acquisition lands; 2 sale transactions were rejected on the ground that they were situate far away from the acquisition lands; 3 sale transactions were rejected on the ground that they are boosted sale of house sites.

8. Ultimately, the Land Acquisition Officer based on the sale transaction at Serial No.246 in Survey No.143/1 found to be the same sort, soil, taram and assessment of the lands under acquisition was sold at Rs.670/- per cent to represent which is the reasonable market value. The above value was adopted as market value for the lands acquired for this scheme. The claimants have received the Award amount under protest, claiming Rs.65,400/-per cent and requested the Land Acquisition Officer to make Reference under Section 18 of the Act.

9. The Land Acquisition Officer has made References under Section 18 of the Act, and they were taken on file by the Additional District Court, Fast Track Court-II, Poonamallee in L.A.O.P.Nos.6 of 2003 and 38 of 2004. On the side of the claimants C.W.1 was examined and eight documents were marked as Ex.C1 to Ex.C8. Ex.C1 is the patta, Ex.C2 is the Kist Receipt, Ex.C3 is the Field Map, Ex.C4 is the sale deed dated 23.6.1997 registered in document No.2727/97. Ex.C5 is the sale deed dated 11.6.1999 registered in document No.2558/99. Ex.C.6 is the sale deed dated 31.3.1999 registered in document No.1533/99, Ex.C7 is the copy of the Judgment dated 6.10.2003 in L.A.O.P.No.181/2001, Ex.C8 is the copy of the decree in L.A.O.P.No. 181/2001. The Special Tahsildar was examined as R.W.1 and Award No.1/2002 dated 31.1.2002 was marked as Ex.R1.

10. Based on the oral and documentary evidence, the learned Additional District Judge, Fast Track Court-II, Poonamallee, taking into consideration of the transaction at Serial No.289 in Survey No.94 shown as house site which was registered as document No.2558, sold at Rs.23,146/- per cent, under Ex.C5, dated 11.6.1999, much prior the date of Notification under Section 4(1), passed an Award fixing the market rate at Rs.20,000/- per cent. The Court below also found that some of the lands acquired were actually house sites located in a layout.

11. Aggrieved by and enhancement, the Land Acquisition Officer is before this Court, assailing the judgment and decree of the Court below, on the ground that the Court below erred in

going by the rate indicated in a sale deed relating to a very small extent of land. According to the learned Additional Government Pleader, small extent of lands sold at fancy prices cannot form the basis for determining the market rate. The Court below, according to the learned Additional Government Pleader, did not look into the distance between the land acquired and the land covered by Ex.C.5.

12. Learned Government Pleader appearing for the appellant in this case has fairly conceded that in the event of confirming the judgment and decree passed by the learned trial Court in respect of the lands acquired by the appellant in similar area in the same Survey Numbers, the same will meet the ends of justice. The learned counsel for the respondents also conceded for the same.

13. From the perusal of the materials it is very clear that 4(1) Notification was published on 8.12.1999, whereas the Award was passed on 31.1.2002. Though the claimants demanded Rs.65,400/- cent, the learned Additional District Judge, Fast Track Court-II, Poonamallee, taking into consideration of the transaction at Serial No.289 in Survey No.94 shown as house site which was registered as document No.2558, under Ex.C5, dated 11.6.1999, sold at Rs.23,146/- per cent, much prior the date of Notification under Section 4(1), passed an Award fixing the market rate at Rs.20,000/- per cent. Even though it is contended that the award passed by the learned trial Court is very low, appeal has not been preferred against the decree and judgment of the court below. Taking into consideration of the locality of the lands acquired which is also fast developing area, the learned trial Court has considered all these aspects and fixed the Award at Rs.20,000/- cent. A careful analysis of the data sale deed it is very clear that more than 50% of the data sales related to house sites. At the time of filing appeal, the appellants have deposited 50% of the Award amount and the claimants are permitted to withdraw the said amount. Therefore, there is not reason to interfere with the award passed by the learned trial Court and it is liable to be confirmed.

14. Accordingly, the award passed by the trial Court is confirmed and both these appeals stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gr.

To:

1.The Special Tahsildar (LA),
Outer Ring Road Project,
Chennai Metropolitan
Development Authority,
Egmore, Chennai - 600 008
Now office at Koyembedu

2.The Member Secretary,
Chennai Metropolitan
Development Authority,
Egmore, Chennai-600 008.

+1cc to Government Pleader sr.25450

+1cc to Mr.C.Johnson,Advocate sr.24859

A.S.Nos.518 AND 519 of 2011

sv1(co)
ss(12/5/2017)



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