

Judgment Reserved on: 06.04.2017

Judgment Pronounced on: 11.04.2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Coram:

The Hon'ble Mr. Justice N.SATHISHKUMAR

Appeal Suit No. 309 of 2010

and

M.P.No.1 of 2010 and M.P.No.1 of 2011

The Special Tahsildar,
Land Acquisition, TACID Unit-4,
Perundurai.

...Appellant/Referring Officer

Versus

1. Marappa Gounder
2. P. Thangamuthu,
3. N. Kuppichi Gounder (Deceased)
4. C. Kuppichi Gounder (Deceased)
5. S. Gurusamy (Deceased)
6. S. Kanthaswamy
7. R. Kolanthaswamy
8. Velayammal (Deceased)
9. S. Shanmuga Gounder
10. K. Chinna Chinnah Gounder
11. K. Subbaraya Gounder
12. K. Palaniswamy
13. Secretary,
Kambilayampatti Co-operative
Land Development Bank,
Erode.

14. N. Veiliangiri
15. K. Seniyappan
16. Nachalla Ammal
17. Saraswathi
18. Nachammal
19. Nallamuthu
20. Rajalakshmi
21. Chinnasamy
22. Sulochana
23. Ramasamy
24. Chinnammal

25.Deivanai
26.Lakshmi
27.G.Karuppasamy
28.Kalaivani
29.Kamalam

.. Respondents

(Respondents 17 and 18 brought on record the LRS of the deceased 4th respondent Respondents 19 to 26 are brought on record as LRS of the deceased respondents 1 and 3 respectively and the respondents 27 to 29 are brought on record as LRS of the deceased 5th respondent)

Appeal Suit filed under Section 54 of the Land Acquisition Act, against the Judgment and decree of the Additional District Judge, Fast Track Court-No.1, Erode, in L.A.O.P.No.3 of 2003 dated 20.01.2006.

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

For Respondents
6,7,9 to 12, 15,
27 to 29. .. Mr.S.Kaithamalai Kumaran

JUDGMENT

This appeal is 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 Court and Fast Track Court-No.1, Erode.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant and Mr.S.Kaithamalai Kumaran, learned counsel appearing for the Respondents 6, 7, 9 to 12, 15, 27 to 29.

3. By G.O.Ms.No.91, Industries Department, dated 27.02.1991, the Government has approved the proposals for acquisition 3.19.0 Hectares of lands comprised in R.S.Nos. 163/1 to 163/15 situate at Ingur Village, Perundurai Taluk, for formation of Industrial Development Corporation. A Notification under Section 4(1) of the Land Acquisition Act was published in the Government Gazette on 02.09.1992. It was published in the newspapers on 10.09.1992 and 23.09.1992 and in the locality on 30.10.1992.

4. Pursuant to the the said Notification, for acquisition of 3.19.0 hectares of lands in R.S.Nos. 163/1 to 15 of Engur Village, Perundurai Taluk, following the mandatory provisions of the Land Acquisition Act namely Section 5A enquiry and Section 6 Declaration, an award was passed by the Special Tahsildar Land Acquisition TACID in award No.7/1995 dated 27.10.1995. Before passing the award, the Land Acquisition Officer took note of the

fact that about 77 sale transactions had taken place during the period of three years immediately preceding the date of Notification under Section 4(1). Out of them, 29 transactions were rejected on the ground that they were situated far away from the surroundings of one Mile. Five sale transactions were rejected on the ground that they were situated within the surroundings of road junctions. 27 sale transactions were rejected on the ground that they were sold for the lesser price. Four sale transactions were rejected on the ground that they were sold in between the relatives. Two sale transactions were rejected on the ground that they were sold for more value.

5. The Land Acquisition Officer has accepted 9 sale transactions at Serial Numbers 48 to 56 for the reasons that the lands were situated within the surroundings of one Mile and the classification of the lands is shown as Manavari lands similar to that of the acquired lands and they were sold to the Co-operative Society. Ultimately, the Land Acquisition Officer has taken note of the sale transaction at Serial No.50, which was registered as document No.1210, dated 26.06.1990, wherein 0.90 cents of lands in R.S.No.351/4 was sold for Rs.26,310/- which comes to Rs.29,700/- per acre. Based on the said sale transaction, the Land Acquisition Officer has fixed the compensation at Rs.29,700/- per acre. Since the Claimants have received the compensation under protest, the Land Acquisition Officer has made References under Section 18 of the Act, and they were taken on file by the Additional District Judge, Fast Track Court-I, Erode in L.A.O.P.No.3 of 2003.

6. On the side of the claimants 11th Claimant was examined himself as C.W.1 on the basis of Power of Attorney given by his father Chinnachina Gounder to depose in this case on his behalf. Two other witnesses were also examined as C.W.2 and C.W.3 and five documents were marked as Ex.C1 to Ex.C5. Ex.C.1 is the Power of Attorney dated 30.6.2005 given by Chinnchinna Gounder in favour of his son Venkatachalamoorthy to depose before the Court on his behalf; Ex.C2 and Ex.C3 are the sale deed dated 29.8.1991; Ex.C4 is the sale deed dated 15.9.1992; Ex.C5 is the sale deed dated 3.9.1992.

7. The retired Special Tahsildar, who has acquired the lands was examined as R.W.1 and five documents were marked as Ex.R1 to R5. Ex.R.1 is the Award No.7 of 1995. Ex.R2 is the copy of sale deed dated 4.4.1994. Ex.R3 is the copy of sale deed dated 27.4.1995; Ex.R4 is the copy of sale deed dated 27.4.1995 and Ex.R5 is the letter of acceptance given by the Claimants in favour of the Respondent.

8. The learned trial Judge, while fixing the compensation, has taken note of the sale transactions under Ex.C2 and Ex.C3 sale deeds dated 29.8.1991. Under Ex.C2 sale deed dated

29.8.1991, an extent of 11.05 cents comprised in R.S.No.522/4 has been sold for Rs.50,000/- which comes to Rs.4,350/- per cent. Under Ex.C3 sale deed dated 29.8.1991, an extent of 5.05 cents have been sold for Rs.24,000/- which comes to Rs.4375/- per cent. Ultimately, the learned trial Judge after making necessary deduction towards the developmental charges, has fixed the value of the acquired land at Rs.1,80,000/- per acre. Aggrieved over the enhancement of compensation made by the learned trial Court, this appeal came to be filed by the Land Acquisition Officer.

9. Though the learned Additional Government Pleader appearing for the appellant has filed this appeal challenging the enhancement of compensation made by the learned trial Court, he has fairly conceded for the compensation fixed by the learned trial Court, since the learned trial Judge has made necessary deduction towards developmental charges. However, so far as the escalation of price and other aspects, the learned Additional Government Pleader cannot make out any case before this Court.

10. In the above background, now, the only point for consideration is:

Whether the judgment and decree passed by the trial Court enhancing the compensation is sustainable or not?

11. The Point:- From the evidence of the Claimants and the Respondent and the documents exhibited on both sides, it could be seen that under Ex.C2 and Ex.C3 sale deeds dated 29.8.1991, an extent of 11.05 cents comprised in R.S.No.522/4 has been sold for Rs.50,000/- which comes to Rs.4,35,000/- per acre and an extent of 5.05 cents have been sold for Rs.24,000/- which comes to Rs.4,37,500/-. Furthermore, the evidence of C.W.1 to C.W.4 would clearly show that the lands in and around the Ingur Village have been sold as house sites, factory sites etc., during 1989-92, as the area was fast developing and the lands acquired are very close to Perundurai to Kadappamadai road and N.H.47 Coimbatore road and had the potentiality for house sites and for commercial usages and are close to the Schools and industries and the market value per acre at the time of Section 4(1) Notification was Rs.3.00 lakhs. The above facts were not denied by R.W.1 during the cross-examination. The Land Acquisition Officer has not given satisfactory evidence for rejection of most of the sale transactions collected by him while fixing the Award amount. The learned trial Judge taken in to consideration of the above oral and documentary evidence, has rightly fixed the value of the acquired land at Rs.1,80,000/- per acre, after making necessary deduction towards the developmental charges, which is reasonable.

12. The learned Additional Government Pleader has also fairly conceded for the compensation fixed by the learned trial Court, since the learned trial Judge has made necessary deduction towards developmental charges. Hence, there is no infirmity in the award passed by the learned trial Court and is liable to be confirmed. Accordingly, the award passed by the learned trial Court is confirmed.

13. In the result, the Appeal stands dismissed. The judgment and decree of the learned trial Court is confirmed. No costs. Consequently, M.P.Nos.1 of 2010 and 1 of 2011 are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gr

To

1. The Additional District Judge,
Fast track Court No.1,
Erode.

+1cc to Mr.A.K. Kumarasamh, Advocate Sr. 21856

PRE DELIVERY JUDGMENT IN
A.S.No.309 of 2010

KHK(CO)
VR(20/4/2017)

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