

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.04.2017

Pronounced on : 02.06.2017

Coram :-

**THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE M.S. RAMESH**

A.S.No.40 of 2010

The Special Tahsildar,
Land Acquisition,
TACIT, Unit-3,
Perunthurai.

... Appellant

vs.

- 1.Gurusamy (deceased)
- 2.Kandasamy
- 3.Velliangiri
- 4.Rengasamy, S.Rengasamy Gounder (deceased)
- 5.Shanmuga Gounder
- 6.Chinnachinna Gounder
- 7.Palanichamy
- 8.Aruchamy
- 9.Chinnusamy
- 10.Periasamy
- 11.Nachimuthu
- 12.Karuppasamy
- 13.Rasayi

14.K.Chenniappan

15.Chairman and Managing Director,
SIPCOT,
19-A Rukmani Lakshmipathy Road,
Egmore, Chennai.

16.Karuppasamy

17.Kalaivani

18.Kamalam

19.Kulandisamy

20.Deivanai

21.Subayammal

R16 to R18 are brought on record as legal representatives of R1 & R19 to R21 brought on record as legal representatives of the deceased R4 vide order of Court dated 15.02.2009. ... Respondents

Prayer:Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the judgment and decree dated 30.06.2006 in L.A.O.P.No.12 of 2003 passed by the learned Additional District Judge, Fast Track Court No.I, Erode.

For Appellant :Mr.P.Gunasekaran,
Additional Government Pleader (AS)

For Respondent :Mr.S.Kaithiamalai Kumaran
Nos.2,5 to 12 & 14

For Respondent :Mr.Ramesh Venkatachalapathy
No.15

For Respondent :No Appearance
Nos.3, 13, 16 to 21

JUDGMENT

(Judgment of the Court was made by M.S.RAMESH.J,)

The present appeal is against the judgment and decree dated 30.06.2006 passed by the learned Additional District Judge, Fast Track Court No.I, Erode in L.A.O.P.No.12 of 2003, challenging the compensation awarded therein.

2.The brief facts in this appeal are as follows:

a)On 15.06.1992, a notification under 4(1) of the Land Acquisition Act was issued to acquire lands measuring to an extent of 8.56.5 hectares in Survey Nos.134/1-5, 431/1-6, 432/1-6, 432/1-18 and 433/1-17 in Ingur Village, Erode by the Revenue Divisional Officer, Erode for public purpose of forming an Industrial Estate. The notification under Section 4(1) of the Act was published in the Tamil Nadu Government Gazette on 16.09.1992 and on the same day, in the Tamil Newspaper namely, Thinathothu and on 17.09.1992, the publication was effected in another Daily namely, Namathu MGR. The notification was informed by Beat of Drums in the local area on 13.11.1992. An enquiry under Section 5(A) of the Act was conducted on 03.03.1993. A declaration under Section 6 of the Act was published on 09.11.1993 and the same was informed by a Beat of Drums on 11.11.1993 in the local area.

b) Out of 8.56.5 hectares of land, the owners of 1.81.0 hectares of lands had directly sold their properties to the appellant through private negotiations and hence, an Award was passed for the balance extent of 6.75.5 hectares alone in Survey Nos.134/1-5, 436/1-6 and 432/1-17 in Award No.10/1995 dated 10.11.1995, whereby, compensation at the rate of Rs.29,700/- per acre was awarded. As against the said award, the respondents 1 to 14 herein had filed L.A.O.P.No.12 of 2003 before the learned Additional District Judge, Fast Track Court No.I, Erode for enhancement of the compensation.

c) By a judgment and decree dated 30.06.2006, the learned Additional District Judge, (FTC No.I) Erode had enhanced the compensation from Rs.27,500/- Rs.1,80,000/- per acre together with 30% solatium and interest on the enhanced compensation was awarded at the rate of 12% from the date of Section 4(1) notification till the date of taking of possession of the land i.e., on 16.09.1992 and further, an interest at the rate of 9% for one year from the date of award and 11% thereafter till the date of deposit of the enhanced compensation. Aggrieved over the same, the present appeal has been filed.

3. According to the appellant, the trial Court was not correct in enhancing the market value from Rs.29,700/- to Rs.1,80,000/- per acre and that the enhancement passed by the Court below was in violation to the procedures of the Land Acquisition Act.

4. On the side of the appellant, seven documents namely, Ex.C1 to Ex.C7 were marked and five witnesses namely, C.W.1 to C.W.5 were examined. On the side of the Land Acquisition Authority, Exhibits Ex.B1 and Ex.B2 were marked and one witness namely, R.W.1 was examined.

5. On the above pleadings, the trial Court had framed the following issue:

1) Whether the claimants are entitled for the enhanced compensation and if so, what could be the enhanced compensation?

6. After considering both the oral and documentary evidence adduced on either side, the trial Court has decreed the suit in favour of the claimants/respondents herein. Aggrieved over the same, the present appeal has been preferred by the

appellant/Referring Officer.

7.The only ground raised by the learned Special Government Pleader in the present appeal is that the Court below had erroneously enhanced the market value from Rs.29,700/- to Rs.1,80,000/- which according to him was exorbitant and that the Court below had erred in relying upon exhibits Ex.C3 and Ex.C4 since the acquired lands were undeveloped as on the date of publication of the Section 4(1) notification.

8.We have carefully perused the pleadings as well as the documents marked before the Court below and have considered the submissions made on behalf of the respective counsels.

9.The subject lands were acquired for the purpose of establishment of Industrial Park for SIPCOT. Section 4(1) notification was published in the Government Gazette on 16.09.1992. On 03.03.1993, an enquiry under Section 5(A) of the Land Acquisition Act was conducted and Award No.10/1995 dated 10.11.1995 was passed, whereby, the Special Tahsildar had fixed the compensation at Rs.29,700/- per acre. The respondents 1 to 14 had filed L.A.O.P.No.12 of 2003 seeking enhancement of the compensation and the judgment and decree impugned in the present appeal, the Court below had enhanced the compensation

from Rs.29,700/- to Rs.1,80,000/- per acre.

10.The only ground on which the Court below had thought it fit to enhance the compensation was by placing reliance on the exhibits namely, Ex.C3 and Ex.C4.

11.On perusal of Ex.C3 and Ex.C4, it is seen that the transactions pertain to a sale of land comprised in Survey No.522/4 measuring 11 ½ cents in Perunthurai Village and Ex.C4 pertains to Survey No.522/4 which measures 5 ½ cents. While the Sale deed in Ex.C3 was executed on 29.08.1991 for a sale consideration of Rs.50,000/-, the Sale deed in Ex.C4 was also executed on 29.08.1991 for a sale consideration of Rs.24,000/-.

12.The only oral evidence let in by the respondent/Acquisition Authority was R.W.1 who was the Special Tahsildar (Land Acquisition) at the time when the subject lands were acquired. R.W.1 in his cross examination has admitted that the acquired lands are within one mile radius of Perunthurai Village. As stated above, the notification under 4(1) of the Land Acquisition Act was made on 16.09.1992. the land comprised in Ex.C3 and Ex.C4 sale deeds were conveyed on 29.08.1991 which is more than one year prior to the said notification. As such, it

cannot be construed that Ex.C3 and Ex.C4 were created for the purpose of enhancing the market value of the acquired lands. The Court below by relying upon Ex.C3 and Ex.C4, had come to the conclusion that the compensation for the acquired lands had to be enhanced and therefore, fixed the same at Rs.1,80,000/- per acre. In view of the same, there is no infirmity or illegality in the decision taken by the Court below in enhancing the compensation on the basis of the market value found in Ex.C3 and Ex.C4 and hence, no interference is required in the present appeal.

13. Accordingly, the present Appeal stands dismissed and hereby, confirming the judgment and decree passed by the learned Additional District Judge, Fast Track Court No.I, Erode in L.A.O.P.No.12 of 2003 dated 30.06.2006. There shall be no orders as to costs.

[R.P.S.J.,] [M.S.R.J.,]

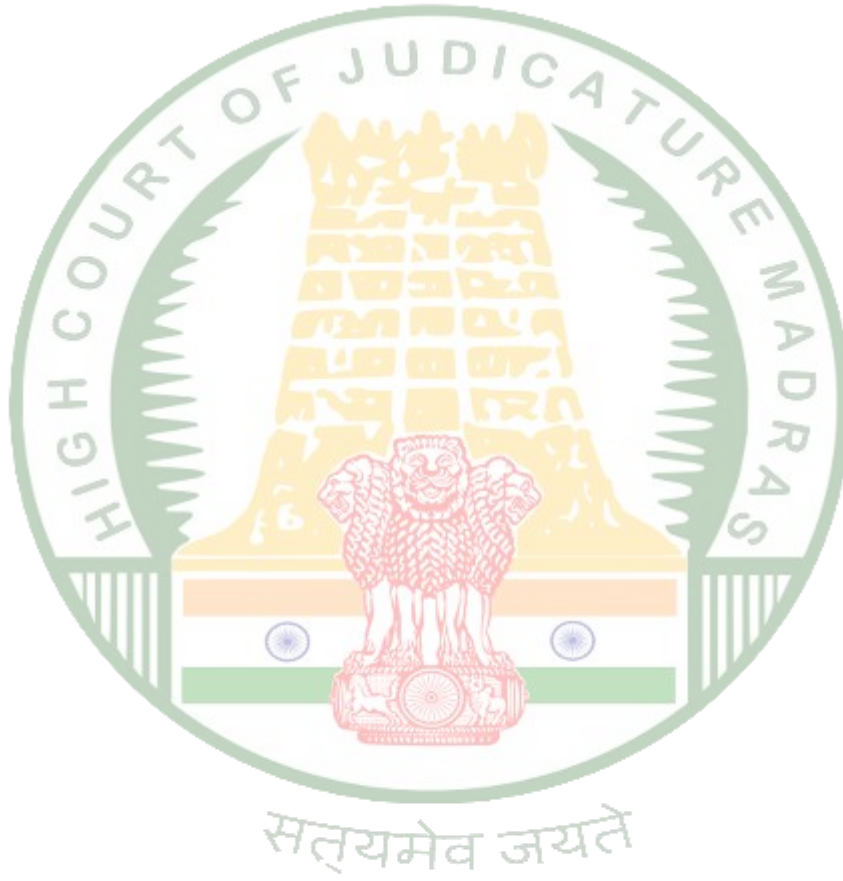
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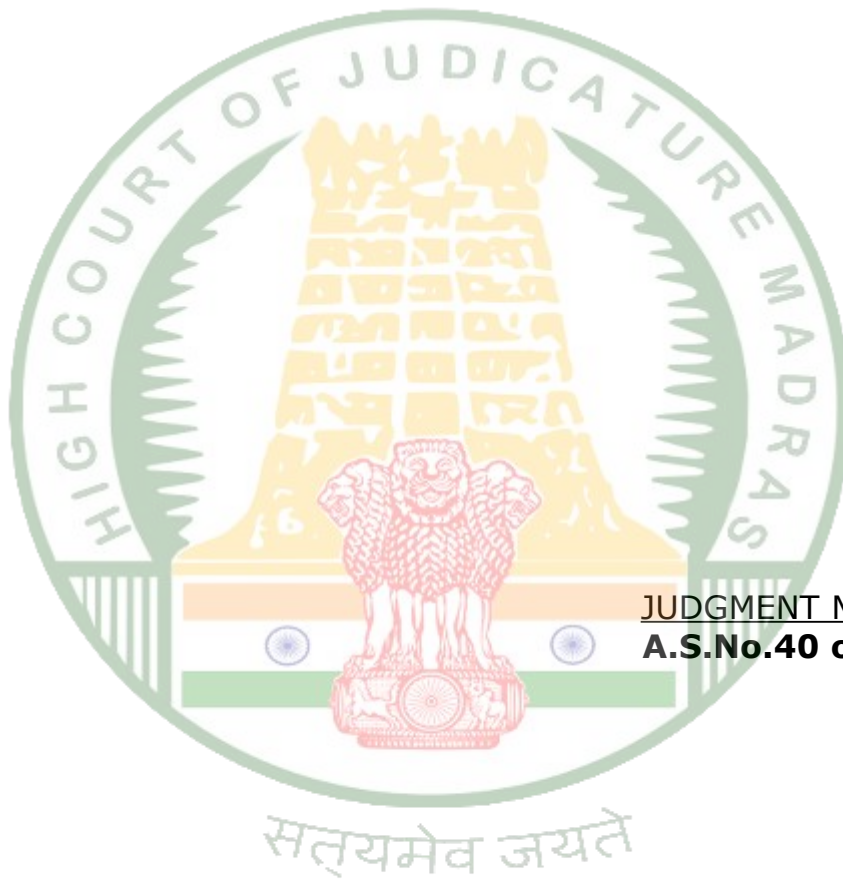
The Additional District Court,
Fast Track Court No.I, Erode.



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and
M.S.RAMESH.J,

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JUDGMENT MADE in
A.S.No.40 of 2010

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