

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2017

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THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

Review Application No.146 of 2017
in
A.S.No.875 of 2009

1. A.J.Radha
2. A.J.Kalpana

...Appellants

vs.

1. The Special Tahsildhar,
Land Acquisition Officer,
Chennai Metropolitan Development Authority (C.M.D.A.)
Egmore, Chennai - 600 008.
2. The Chief Executive Officer,
Chennai Metropolitan Development Authority (C.M.D.A.)
Egmore, Chennai - 600 008.

... Respondents

Review Application is filed under Order XLVII Rule 1 and 2 r/w.114 of Code of Civil Procedure to fix the land value in question at the rate of Rs.2,000/- per sq.ft as against the land value fixed at Rs.1,100/- per sq.ft in the judgment and decree made in A.S.No.875 of 2009 dated 26.08.2010 by this Hon'ble Court.

For Appellants : Mr.R.Ramesh

For Respondents : Mr.Gunasekarn,
Additional Government Pleader (A.S.)

J U D G M E N T

The appellant in A.S.No.875 of 2009 whose land were acquired for the purpose of expansion of Koyambedu wholesale market has come forward with this Review Application.

2. The lands in question were acquired and a notification under Section 4(1) of the Land Acquisition Act, 1894 was made on 25.01.2001 and the same has been followed by declaration on 20.09.2002.

3. The land acquisition Officer passed an award fixing the compensation for the lands acquired at Rs.407 per sq.ft. Not satisfied with the said award the land owners sought for reference under Section 18 of the Land Acquisition Act. References were made to the VI Assistant City Civil Court, Chennai in LAOP.Nos.1 to 6, 8 to 16 and 18 to 22 of 2005. All the above LAOP's came to be disposed of by the reference Court on 29.12.2008 fixing the compensation at Rs.825 per sq.ft.

4. Not satisfied with the said fixation several appeals have been filed in this Court and the Review Applicant had filed AS.No.875 of 2009 seeking a compensation of Rs.1,100/- per sq.ft. The appeals came to be disposed of by a common judgment dated 26.08.2010, wherein this Court on the

evidence available had concluded that the market value of the property as per the documents that were filed is Rs.2,000/- per sq.ft. However, the learned Single Judge who disposed of the appeals concluded that since the appellants had claimed compensation of only Rs.1,100/- the appellants will be entitled the said sum only.

5. Contending that the Hon'ble Judge who disposed of the appeal was not right in restricting the compensation to Rs.1,100/- and ought to have awarded a sum of Rs.2,000/- per sq.ft, directing the petitioners/ appellants to pay the additional Court fee, several Review Applications have been filed before this Court in Review Petition Nos.62 to 69 of 2017, by the order dated 21.06.2017 Hon'ble Mr.Justice N.Kirubakaran had allowed the Review Applications fixing the value of the acquired land at Rs.2,000/- per sq.ft and in para 6 of the said order it is observed as follows :

“By allowing these review petitions, this Court rejects the contention of the learned Addition Govt. Pleader (A.S) that the petitioners have sought fixation of the value of the acquired lands at Rs.1,260/- per sq.ft only and therefore, they cannot seek higher compensation for the reason that this Court is bound to follow the evidence available on record namely Ex.C1 to C5. The compensation payable to the review petitioners have to be worked out at the rate of

Rs.2,000/- per square feet together with other statutory paymnets and disbursed to the respective review petitioners within a period of twelve weeks from the date of receipt of a copy of this order. The review petitioners are directed to pay additional Court fee for the enhanced compensation amount and it is made clear that the respective review petitioners are not entitled to any interest for the period of delay in filing the respective review petitions.”

6. It is not in dispute that the present case is in fact covered by the above order in Revision Petition Nos.62 to 69 of 2017. I had also followed the above judgment of Hon'ble Mr.Justice N.Kirubakaran in Review Application No.106 of 2017.

7. Considering the above, this review application is also allowed and the Review Applicants/ appellants in AS.No.875 of 2009 would be entitled to a compensation of Rs.2,000/- per sq.ft for land acquired from them.

8. It is made clear that they would be entitled to the statutory benefits, viz., additional amount under Section 23A of the Act, solatium at 30% and interest at 9% for one year from the date of taking possession and at 15% thereafter till date of payment.

9. There was a delay of 2472 days in filing the Review Petition while condoning the delay it has been made clear that the Review Petitioner would not be entitled to interest for the delayed period.

10. Hence, while calculating interest on the enhanced amount awarded the period 2472 days will be excluded.

11. The appellants in AS.No.875 of 2009/ Review Applicants shall pay the Court fee at the rate of 7.5% on the enhanced compensation at Rs.900/- per sq.ft. The Court fee paid in Review Application shall be given credit to.

13.09.2017

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Index : Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

To

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Chennai Metropolitan Development Authority (C.M.D.A.)
Egmore, Chennai - 600 008.

2. The Chief Executive Officer,

Chennai Metropolitan Development Authority (C.M.D.A.)
Egmore, Chennai - 600 008.

R.SUBRAMANIAN,J.

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