

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

REVIEW PETITION Nos. 62 to 69 of 2017

Review Petition No. 62 of 2017

P. Sanjeevi

..Petitioner

Vs.

1. Special Tahsildar (Land Acquisition
Officer),
CMDA, Chennai - 8.

2. Chief Executive Officer,
CMDA, Egmore, Chennai - 8.

..Respondents

Prayer: Review Petitions seeking review of the judgment and decree dated 26.08.2010 made in Appeal Suit Nos. 707 of 2010, 773, 777, 869, 870, 871, 874 and 876 of 2009.

For Petitioners :: Mr.K. Padmanabhan

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

COMMON ORDER

These Review Petitions have been filed as against the common judgment passed in Appeal Suit Nos.707 of 2010, 773, 777, 869, 870, 871, 874 and 876 of 2009 on 26.08.2010, which appeals were filed by the respective review petitioners for enhancement of compensation in respect of the lands acquired from them for the purpose of establishment/extension of Koyambedu whole sale market.

2. Heard Mr.K.Padmanabhan learned counsel appearing for the review petitioners and Mr.P.Gunasekaran, learned Additional Govt. Pleader(AS) for the respondents.

3. It is not in dispute that a vast extent of land, located in Koyambedu Village including the lands belonging to the petitioners, was acquired by virtue of 4 (1) Notification dated 25.01.2001 for public purpose. The Tahsildar, based on the evidence adduced before him, determined the value of the land at Rs.407/- per square feet. Against the said determination, the respective review petitioners filed Reference Petitions before the Civil Court and the Civil Court, based on the evidence available on record, enhanced the compensation to Rs.825/- per

sq. ft. Still not satisfied with the determination regarding the value of the lands, the petitioners preferred Appeal Suits before this Court. The Appeal Suits were disposed of by a learned Single Judge of this Court by common judgment dated 26.08.2010. The learned Judge, taking note of the fact that some of the sale deeds reflected higher value for the properties, which were similar to that of the acquired lands, enhanced and determined the value of the acquired lands at Rs.1,100/- per sq.ft., even though it was noted in paragraph No.8 of the order that the sale transactions through Exhibits C1 to C5 reflected the value of the lands covered under them @ more than Rs.2,000/- per sq.ft. As against the said determination only, the present review petitions have been filed stating that fixation of Rs.1,100/- per sq.ft for the properties acquired, inspite of availability of evidence by way of Exs.C1 to C5 which proves that the value of properties, covered under them, which are comparable to the acquired lands, at Rs.2,000/- per sq.ft., is an error apparent on the face of the record.

4. A close perusal of the records, especially, the learned Single

Judge's judgment, would reveal that Exs.C1 to C5 are earlier documents when compared to the date of 4 (1) Notification, i.e, 25.01.2001 and the value of the land shown in those documents is Rs.2,000/- per sq.ft and paragraph 8 of the order dated 26.03.2010 is extracted as follows:

"8. It is seen from the records that Section 4(1) Notification was issued on 25.01.2001. The award in 1/2004 came to be passed on 31.05.2004. The acquiring authority considered 1290 sale transactions, which had taken place three yrs before the date of 4(1) Notification, namely, 31.08.1998 to 24.09.2001. In Ex.C.1, which is the sale deed dated 09.02.1998, the land has been sold at Rs.40 lakhs per ground. Ex.C.2 is the sale deed datd 10.12.1997. Ex.C.3 is the sale deed dated 29.12.2003. Ex.C.4 is the sale deed dated 17.04.1998. Ex.C.5 is the sale deed dated 26.10.1999. In the sale transactions shown, the land has been sold at the rate of more than Rs.2000/- per sq.ft."

From the above, it is clear that when it is on record, by way of Exs.C1 to C5, which are prior documents, the value of the lands covered under those sale transactions, is Rs.2,000/- per sq.ft., the said value should have been accepted and the value of the lands acquired should have been determined at Rs.2,000/- per sq.ft. However, the learned Single Judge had relied upon determination of Rs.825/- per sq.ft by the

Civil Court, which in turn, relied upon its own Judgment in LAOP.14/2002, dated 14.11.2006 and fixed the value of the land at Rs.825/- per sq.ft and added 10% appreciation per year and arrived at Rs1,100/- per sq.ft. The said determination is contrary to the evidence on record namely Exs.C1 to C5 and therefore, the determination of value of the acquired lands at Rs.1,100/- per sq.ft has to be set aside.

5. As rightly observed by the learned Single Judge, at paragraph No. 8 of the judgment dated 26.08.2010, the documents, namely, Ex.C1 dated 09.02.1998, Ex.C2 dated 10.12.1997, Ex.C3 dated 29.12.2003, Ex.C4 dated 17.04.1998, Ex.C5 dated 26.10.1999 are all prior documents to the date of 4 (1) Notification, which was issued on 25.01.2001. These documents reflect the value of the properties covered by them to be more than Rs.2000/- per sq.ft., which fact is also admitted by RW1 - officer in his evidence. Therefore, as per the above documents, Rs.2,000/- is required to be fixed as the market value of the lands acquired, which was not relied upon by the learned Single Judge to determine the compensation. Hence, the review petitions are allowed and the value of the lands acquired from the respective review

petitioners, fixed at Rs.1,100/- per sq.ft. is enhanced to Rs.2,000/- per sq.ft together with all statutory benefits.

6. By allowing these review petitions, this Court rejects the contention of the learned Additional 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 payments 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.

7. Call on 3rd October 2017, for reporting compliance failing

which the respondents shall appear before this Court. No costs.

21.06.2017

nv/tkp

To

1. Special Tahsildar (Land Acquisition Officer),
CMDA, Chennai - 8.
2. Chief Executive Officer,
CMDA, Egmore, Chennai - 8.



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N. KIRUBAKARAN, J.

nv/tkp



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