

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2017

CORAM:

THE HON'BLE MR. JUSTICE R. SUBBIAH
and

THE HON'BLE MR. JUSTICE M.S. RAMESH

A.S. No.211 of 2009 & Cross Objection No.11 of 2017
A.S. No.212 of 2009
A.S. No.213 of 2009
A.S. No.214 of 2009
A.S. No.215 of 2009 & Cross Objection No.8 of 2017
A.S. No.216 of 2009 & Cross Objection No.9 of 2017
A.S. No.217 of 2009 & Cross Objection No.10 of 2017
A.S. No.218 of 2009
A.S. No.219 of 2009 & Cross Objection No.12 of 2017
A.S. No.220 of 2009 & Cross Objection No.13 of 2017
A.S. No.221 of 2009 & Cross Objection No.14 of 2017
A.S. No.222 of 2009 & Cross Objection No.15 of 2017

1 THE LAND ACQUISITION OFFICER/
THE REVENUE DIVISIONAL OFFICER
COIMBATORE - 18

2 THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT (WRO)
BHAVANISAGAR DAM DIVISION
BHAVANISAGAR

...APPELLANTS IN ALL
APPEAL SUIT & RESPONDENTS
IN CROSS OBJECTIONS AND 8
TO 15/2005

vs.

1 V. KUPPUSAMY
2 V. SHANMUGAM
3 ALAMATHAL
4 SARADA
5 VASANTHAMANI
6 BANUMATHI
7 K. SUBRAMANIAN
8 RUKMANI
9 SAROJINI
10 PATTILINGAM
11 SARASWATHI

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12 DEVARAJ
13 KAMALAVENI
14 VELLINGIRI GOUNDER
15 LAKSHMI

... RESPONDENTS IN
APPEAL SUIT AND
CROSS OBJECTORS IN
CROSS OBJECTION

1 PALANISAMY
2 SUBBULAKSHMI
3 K.SELVAMANI
4 KAVITHA
5 K.NANJUKUTTI GOUNDER
6 TMT PALANIAMMAL
7 N.VENKIDASAMY
8 TMT SELLAMMAL

... RESPONDENTS IN A.S.NO.212 OF 2009

1 MUTHUSAMY
2 KANDASAMY
3 MARUDHAKUTTY
4 AYYASAMY
5 SUBBAIAN
6 SIVASAMY
7 KALIAMMAL
8 VALLIAMMAL
9 SARASWATHI
10 KALIAMMAL
11 KANNAN
12 SARASWATHI
13 SARATHAMANI
14 DHANALAKSHMI
15 KOMALAVALLI

... RESPONDENTS IN A.S.NO.213 OF 2009

1 K.PERUMAL GOUNDER
2 S.MARUDACHALAM
3 R.VENKIDUSAMY
4 A.MEENAKSHIAMMAL
5 N.VENKATACHALAM (DECEASED)
6 P.MARUDHAKUTTY GOUNDER
7 SIVAKAMI SUNDARI
8 RAMATHAL
9 SUBBULAKSHMI
10. V.KULANDAIVELU
11. SARASWATHI

12. VIJAYALAKSHMI ... RESPONDENTS IN A.S.NO.214 OF 2009
(7 TO 12 BROUGHT ON RECORD AS LRS OF
THE DECEASED 5TH RESPONDENT AS PER
ORDER OF THIS COURT DATED 07.02.2012,
IN M.P.NO.1 OF 2012
TO MP NO.3 OF 2012 IN A.S NO.214 OF 2009)

1 CHINNASAMY @ RAMASAMY GOUNDER
2 SUBBAIAN @ NANJU KUTTY GOUNDER
3 ARUMUGAM
4 SUBBAIAN @ SUBBANNA GOUNDER
5 DEVARI AMMAL ... RESPONDENTS IN A.S.NO.215 OF 2009
AND CROSS OBJECTOR IN
CROSS OBJECTION 8/2017

1 K.RAMASAMY
2 RANGASAMY
3 CHINNASAMY
4 KUPPAKKAL
5 RANGASAMY
6 DHANALAKSHMI
7 VELAMMAL
8 SARASWATHI
9 EASWARAN
10 RAMASAMY
11 THANGAMANI
12 DHANALAKSHMI ... RESPONDENTS IN A.S.NO.216 OF 2009
AND CROSS OBJECTOR IN
CROSS OBJECTION 9/2017

1 V. CHINNASAMY
2 RAMASAMY
3 TMT POOVATHAL
4 TMT KALAIAMMAL
5 TMT KANNAMMAL
6 KANDASAMY
7 KALIAMMAL
8 N ARUCHAMY
9 DHANALAKSHMI
10 BALAKRISHNAN
11 BHUVANESWARI ... RESPONDENTS IN A.S.NO.217 OF 20019
AND CROSS OBJECTORS IN
CROSS OBJECTION 10/2017

1 K. MARUDACHALAM
2 S. GANAPATHIPPAN
3 M PERIAMMAL (DECEASED)
4 S. SANTHAMANI
5 N. RAMASAMI GOUNDER
6 TMT RASAMMAL
7 A. SUBBAIYAN
8 N. ARUCHAMY
9 CP PONNUSAMY
10 SIVASAMY
11 RAMALAKSHMI
12 DHANALAKSHMI

13 GANDHIMATHI
14 M.PALANIAPPAN
15 SARASWATHI
16 NEELAVATHY
17 M.NATARAJAN
18 M.ARUNACHALAM ... RESPONDENTS IN A.S.NO.218 OF 2009
(RESPONDENTS 14 TO 18 BROUGHT
ON RECORD AS LRS OF DECEASED
R3 AS PER ORDER OF THIS COURT
DATED 7/3/12 MADE IN M.P.NO.1
TO 3/12 IN A.S.NO.218 OF 2009)

1 V. MURUGESAN
2 TMT AYYAMMAL
3 P. NANJU KUTTI GOUNDER (DECEASED)
4 KALIAMMAL
5 TMT BAGAVATHI
6 SATHYAPRIYA
7 LATHA
8 BAGYARAJ
9 TMT KALIAMMAL
10 VELUSAMY
11 SUBRAMANIAN
12 RENGASAMY
13 THULASIAMMAL
14 SOMASUNDARAM
15 DHANALAKSHMI
16 KANGARAJAN
17 PADMA
18 USHA
19 VASANTHA
20 SOMASUNDARAM
21 PAULRAJ
22 T.SARASWATHI ... RESPONDENTS IN A.S.NO.219 OF 2009
AND CROSS OBJECTOR IN
CROSS OBJECTION 12/2017

(RESPONDENTS 20 TO 22 BROUGHT
ON RECORD AS LRS OF DECEASED
R3 VIDE ORDER OF THIS COURT
DATED 7/2/2012 MADE IN M.P.1
TO 3/12 IN A.S.NO.219/2009)

1 TMT.POOVATHAL
2 PALANISAMY @ SELVARAJ
3 RAMASAMY
4 KANDASAMY
5 SHANMUGAM
6 GNANAMANI ... RESPONDEDNTS IN A.S.NO.220 OF 2009
AND CROSS OBJECTOR IN CROSS
OBJECTION 13/2017

1 N.CHINNASAMY
2 TMT.S.SUBBULAKSHMI
3 GEETHA
4 TAMILARASU
5 SIVAGAMI @ SIVATHAL
6 PAPPATHI

... RESPONDENTS IN A.S.NO.221 OF 2009
AND CROSS OBJECTOR IN
CROSS OBJECTION 14/2017

1 S.VENKATACHALA GOUNDER
2 N.SUNDARAMMAL
3 CHELLAMMAL
4 MARUDHACHALAM
5 RACKIANNAN
6 MARUDHATHAL
7 TMT.THANGAMMAL
8 TMT.NANJAMMAL
9 TMT.RAJAMMAL
10 TMT.A.NANJAMMAL

... RESPONDENTS IN A.S.NO.222 OF 2009
AND CROSS OBJECTOR IN
CROSS OBJECTION 15/2017

Prayer in A.S. No.211 of 2009 to 222/09

Appeal Suit filed under Section 54 of the Land Acquisition Act seeking to set aside the decree dated 10.03.2008 passed in L.A.O.P.Nos.10 to 21/2005 respectively on the file of the I Additional Sub Court Coimbatore (I/c).

Cross Objection No.11 of 2017, and 8 to 15 of 2017:

Cross Objection filed under Section 54 of the Land Acquisition Act seeking to set aside the decree and judgment dated 10.03.2008 passed in L.A.O.P. Nos.10, 14 to 16 and 18 to 21/2005 on the file of the I Additional Sub Court Coimbatore (I/c) and consequently, enhance the compensation.

For appellants in
all A.S.

&
for respondents in
all Cr. Obj.

For respondents in
all A.S.

&
for Cross Objectors

Mr.P. Gunasekaran
Addl. Govt. Pleader (A.S.)

Mr. M. Devaraj

COMMON JUDGMENT

(Common judgment of the Court was delivered by R. SUBBIAH, J.)

A.S. Nos.211 to 222 of 2009 have been preferred by the State challenging the judgment and decree dated 10.03.2008 passed in L.A.O.P. Nos.10 to 21 of 2005 respectively on the file of the I Additional Sub Court Coimbatore (I/c) (for brevity "the Reference Court").

2 Cross Objection Nos.11, 8 to 15 of 2017 have been preferred by the claimants seeking enhancement of compensation of Rs.2,400/- per cent awarded by the Reference Court in L.A.O.P.Nos.10,14,15,16,10,18,19, 20 and 21 of 2005 respectively, to Rs.6,000/- per cent.

3 Inasmuch as the area under acquisition in all these appeal suits is one and the same and also since all these appeal suits arise out of a common judgment of the Reference Court, all the Appeal Suits and also the Cross Objections filed by the respective claimants seeking enhancement of compensation are considered and decided by this common judgment.

4 Since the appellants in the Appeal Suits are the respondents in the Cross Objections and the Cross Objectors in the Cross Objections are the respondents in the Appeal Suits, to avoid verbosity and for the sake of convenience, the parties are referred to as appellants and claimants/Cross Objectors.

5 Minus the minute details, the facts which are germane and necessary for the disposal of the cases at hand are as under:

The Government sanctioned a scheme for the formation of Chinnavedampatti Tank in Coimbatore (North) Taluk, Coimbatore District on 29.04.1986. For this purpose, a notification under Section 4(1) of the Land Acquisition Act (for brevity "the LA Act") was approved in G.O. Ms.No.2045, Public Works Department dated 16.10.1987 for acquisition of 67.13 hectares (165.86 acres) of land in Chinnavedampatti Village. The said notification was published in the Government gazette on 04.11.1987 and made public in the locality by beat of tom tom on 27.04.1988. Thereafter, enquiry under Section 5-A of the LA Act was conducted in the Chinnavedampatti Panchayat Office from 27.06.1988 to 29.06.1988. Subsequent thereto, the draft declaration under Section 6 of the LA Act was approved in G.O. Ms.No.1974, Public Works Department dated 12.12.1988. Thereafter, the substance of the draft declaration was published on 27.02.1988 and declaration under Section 6 of the LA Act was

published on 02.08.1989 followed by notice under Sections 9(1), 10 and 9(3), *ibid*, on 05.09.1989 for award enquiry. Pursuant thereto, from 25.09.1989 to 30.09.1989, award enquiry was conducted, in which, the land owners partook and during the course of enquiry, sale statistics collected from 01.12.1985 to 09.08.1988 numbering about 127 sale deeds were gathered and from and out of various sale deeds, the Land Acquisition Officer had taken the sale deed mentioned as item no.115, i.e., sale deed dated 21.03.1988 registered as document no. 1420 of 1988 in respect of 2 acres of dry land comprised in S.No.137/1A2 and determined the value of land at Rs.30,000/- per acre and eventually, the land was handed over to the Public Works Department on 26.03.1990.

6 On the objections raised by the land owners over determination of value of land, reference under Section 18 of the LA Act was made before the Reference Court. Before the Reference Court, on the side of the claimants, one of the land owners,, viz., V. Kuppusamy was examined as C.W. 1 and 8 documents were marked as Exs. C.1 to C.8. On the side of the appellants, one P. Manoharan was examined as R.W.1 and 5 documents were marked as Exs.R.1 to R.5.

7 The Reference Court, taking Ex.C.1, sale deed dated 27.04.1988 into consideration, under which, an extent of 5 cents and 22 sq. ft. of land in S.No.100 was sold for Rs.19,834.71 and considering the fact that the extent of land acquired is huge, whereas, the land covered under Ex.C.1, sale deed dated 27.04.1988 is of a much smaller extent, determined the value of the acquired land at Rs.3,60,000/- per acre and after deducting one third of the value towards development charges, arrived at the market value of the land at Rs.2,40,000/- per acre, i.e., Rs.2,400 per cent.

8 Feeling aggrieved by the enhancement of compensation fixed by the Referring Officers, the State has preferred the instant appeal suits and not being satisfied with lesser amount of compensation, the claimants have preferred the Cross Objections seeking enhancement of compensation.

9 The main plank of contention of the learned Additional Government Pleader appearing for the appellants is that for the purpose of fixing the market value, the Reference Court has relied on a document under which a land of smaller extent was sold and under such circumstances, the Reference Court ought not to have deducted at least another 10% besides one third deduction made towards development charges.

10 Countering the said submission of the learned Additional Government Pleader, the learned counsel for the

claimants/Cross Objectors submitted that bearing in mind, the prime location of the acquired land, viz., its proximity to Kumaraguru Engineering College and other colleges and industries such as Ramakrishna Mill, etc. and its location within 2 kms. from NH-67 and also considering the fact that as per Ex.C.2, Master Plan for Coimbatore Local Planning Area, the village in question has been included in the Master Plan before 1988 and that the said area has been classified as "industrial area" and also keeping in mind, the fact that the land under acquisition is very large, whereas, the land covered under Ex.C.1, sale deed dated 27.04.1988 is small, the Reference Court has made one third deduction and as such, there is no need for further deduction of 10%, as contended by the learned Additional Government Pleader. Further, according to the learned counsel for the claimants/Cross Objectors, in fact, the deduction of one third made by the Reference Court towards development charges is liable to be set aside. Thus, the learned counsel for the claimants/Cross Objectors submitted that by setting aside the deduction of one third amount towards development charges made by the Reference Court, the compensation amount has to be enhanced.

11 We have heard the learned counsel on either side and perused the materials available on record.

12 The only submission of the learned Additional Government Pleader is that since through Ex.C.1, only a smaller extent of land was sold, which was taken into consideration by the Reference Court for determining the market value, now, another 10% has to be deducted towards development charges.

13 Per contra, it is the submission of the learned counsel for the claimants/Cross Objectors that the potentiality of the acquired land is high and it is near Kumaraguru Engineering College and other colleges and also industries such as Ramakrishna Mill, etc. and it is also within 2 kms. from NH 67 and under such circumstances, there is no need for deduction of 10%, as submitted by the learned Additional Government Pleader appearing for the appellants.

14 It is pertinent to point out that the Reference Court, by relying upon Ex.C.2, Master Plan for Coimbatore Local Planning Area, has arrived at a finding that the potential value of the land is very high and accordingly, has made one third deduction towards development charges. In view of the said finding, we have no hesitation in holding that there is no need whatsoever to make a further deduction of 10%, as claimed by the learned Additional Government Pleader, inasmuch as one third of the land value has already been deducted by the Reference Court towards development charges, which is as per the line of

judgments rendered by the Supreme Court in this regard. Further, it is evident that from the materials placed on record, the Reference Court has come to the conclusion that the area under acquisition is classified as industrial area and that being so, we do not find any reason to make a further deduction of 10% as argued by the learned Additional Government Pleader.

15 At this juncture, it is apropos to refer to the judgment of the Supreme Court in Ashok Kumar and another vs. State of Haryana [(2016) 4 SCC 544], wherein, the duty of the Court qua awarding just and fair compensation has been emphasised in no uncertain terms. The relevant passage from the said judgment is usefully extracted hereunder:

"7. It is the duty of the Court to award just and fair compensation taking into consideration the true market value and other relevant factors irrespective of the claim made by the owner."

16 In the cases at hand, by taking into account, Ex.C.1, sale deed dated 27.04.1988 and deducting one third towards development charges, the Reference Court has correctly determined the market value of the land at Rs.2,400/- per cent, which warrants no interference by this Court.

In view of the aforesaid discussion, the Appeal Suits preferred by the State and also the Cross Objections preferred by the claimants are liable to be dismissed and are accordingly dismissed. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Land Acquisition Officer/
The Revenue Divisional Officer,
Coimbatore - 18.
- 2 The Executive Engineer,
Public Works Department (WRO),
Bhavanisagar Dam Division,
Bhavanisagar.

3 The I Additional Sub Judge Coimbatore (I/c),
Coimbatore.

4 The Record Keeper,
V.R. Section,
Madras High Court.

+12 cc to Mr.M.Devaraj, Advocate Sr.No.20654 to 20665

A.S. Nos.211 to 222 of 2009 (12 cases)
and
Cross Objection Nos.8 to 15 of 2017 (8 cases)

vsn[co]
srg 25/04/2017



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