

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:12.06.2017

Coram :

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

A.S.No.73 of 2010

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

... Appellant

vs.

- 1.Lakshmiammal
- 2.Shanmuga Gounder
- 3.Velliyangiri
- 4.Periyasamy
- 5.Nachimuthu
- 6.Karuppusamy
- 7.Ramayi
- 8.Gurusamy
- 9.Kandasamy
- 10.Chinnasamy
- 11.Arusamy
- 12.Palanisamy
- 13.Chinna Chinna Gounder
- 14.K.Chenniyappan

15.The Chairman & Managing Director,
SIPCOT, 19A, Rukamani Lakshmipathi Road,
Egmore, Chennai-8.

16.Karuppusamy

17.Kalaivani

18.Kamalam

Cause title accepted by accepting
R16 to R18 as legal representatives
of the deceased R8 vide order of
Court dated 15.12.2009 made
in M.P.No.1 of 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.19 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 Respondents :No Appearance

JUDGMENT

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

Aggrieved against the quantum of compensation awarded by the learned Additional District Judge, Fast Track Court No.I, Erode in L.A.O.P.No.19 of 2003, the Land Acquisition Officer has filed the present appeal under Section 54 of the Land Acquisition Act.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing on behalf of the appellant.

3.The brief facts of the appeal are as follows:

i)The lands comprised in R.S.No.135/1-2, 136/1-2 and 137/1-2 totally measuring to an extent of 8.41.5 hectares was sought to be acquired through a notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.No.375 dated 18.08.1992 for the purpose of establishing Industrial Development Corporation. The said notification was published in the Tamil Nadu Government Gazette on 02.09.1992 and also in two Tamil Dailies namely, 'Adhirshtam' dated 29.08.1992 and 'Maduraimani' dated 30.08.1992. The notification was displayed in the public place on 16.09.1992 and was also informed in the Village through beating of tom tom, calling for objections.

ii)Pursuant to the notification, an enquiry under Section 5(A) of the Land Acquisition Act was conducted and the Land Acquisition Officer had determined the compensation at Rs.29,700/- per acre. Since the claimants had raised objections on the quantum fixed by the Land Acquisition Officer, reference under Section 18(a) of the Land Acquisition Act was made and taken on file by the

learned Additional District Judge, Fast Track Court No.I, Erode in L.A.O.P.No.19 of 2003.

iii)Before the learned Additional District Judge, Fast Track Court No.I, Erode, the claimants had marked Sale deeds namely, Ex.C3 to Ex.C7 in which they claimed that the lands adjoining the acquired lands were sold at the rate of Rs.3 lakhs per acre prior to the acquisition and therefore, the claimants had sought for enhancement of the compensation fixed by the Land Acquisition Officer.

iv)Ex.C3 is one such Sale deed dated 29.08.1991 pertaining to the lands comprised in Survey No.522/4 whereby an extent of 11 ½ cents was sold for Rs.50,000/- and Ex.C4 is another Sale deed dated 29.08.1991 pertaining to the lands comprised in Survey No.522/4 in which an extent of 5 ½ cents was sold for a sum of Rs.24,000/-. Since the lands covered under Ex.C3 and Ex.C4 were almost one year prior to the notification under Section 4(1) of the Land Acquisition Act, the lower Court had come to the conclusion that the lands adjoining to the acquired lands covered under Ex.C3 and Ex.C4 had been sold at the rate of Rs.4350/- per cent and that since the lands covered under Ex.C3 and Ex.C4 were of smaller extent, 56% of the value was deducted towards

development charges and had accordingly determined the compensation at Rs.1,80,000/- per acre together with solatium at the rate of 30%. The lower Court had also granted interest on the enhanced compensation at the rate of 12% per annum from 13.10.1995, i.e., the date on which the possession of the acquired lands were taken over by the Government. Aggrieved against the said judgment, the present appeal has been filed.

4.The only point for consideration in the present appeal is to whether the judgment and decree passed by the trial Court in enhancing the compensation is sustainable or not.

5.Though the learned Additional Government Pleader had submitted that the trial Court was not justified in fixing the compensation at Rs.1,80,000/-, it is seen from the records that apart from the oral evidence of the Land Acquisition Officer namely, R.W.1, there is no other evidence either oral or documentary to establish his submission. Furthermore, the trial Court had rightly taken into consideration the sale deeds covered under Ex.C3 and Ex.C4 which were almost one year prior to the date of notification under Section 4(1) of the Land Acquisition Act. It is not in dispute that the lands covered under Ex.C3 and Ex.C4 are situated within a radius of 1 mile distance from the acquired land. The distance of

the data lands from the acquired land is also further ratified through the evidence of CW1. The above fact has not been denied by R.W.1 during the cross examination. As such, the data lands adopted by the trial Court are not only prior to the date of the Section 4(1) notification but are also situated within close vicinity of the acquired lands. In our considered view, the learned trial Judge had rightly appreciated the oral and documentary evidences placed before him and had correctly fixed the compensation of the acquired land at Rs.1,80,000/- per acre. Hence, we did not find any infirmity or illegality in the award passed by the learned trial Court and accordingly, the award is confirmed.

6.In the result, the appeal stands dismissed and the judgment and decree of the learned trial Court is confirmed. There shall be no order as to costs. Consequently connected Miscellaneous petition is closed.

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

12.06.2017

Index : Yes/No
Internet: Yes/No
DP

To

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

R.SUBBIAH.J,
and
M.S.RAMESH.J,

DP

JUDGMENT MADE in
A.S.No.73 of 2010

12.06.2017
<http://www.judis.nic.in>