IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

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THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.S.No.658 of 2008
and
Cross Objection No.16 of 2017

The Land Acquisition Officer &
Revenue Divisional Officer,
Coimbatore. ... Appellant in Appeal &
1st Respondent in Cross Objection
(Referring Officer)

Vs.

1.K.Manikam
2.Meenakshi
3.Palaniswamy
4.Subramani
5.Muthusamy
6.Thangavelu
7.Leelavathi
8.Rukmani
9.Loganayaki
10.Mani ... Respondents 1 to 10 in Appeal &
Appellants in Cross Objection
(Claimants 1 & 3 to 11)

11.The Executive Engineer,
Public Works Department (WRD)
Bhavani Sagar Dam Division,
Bhavani Sagar. ... 11th Respondent in Appeal &
2nd Respondent in Cross Objection
(Beneficiary)

Prayer in Appeal: Appeal suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the learned Ist Additional Sub Court, Coimbatore, in L.A.O.P. No.10 of 2004 dated 04.10.2007.

Prayer in Cross Objection : Appeal suit has been filed under Section 54 of the Land Acquisition Act, against the judgment and decree passed in L.A.O.P. No.10 of 2004 dated 04.10.2007 on the file of the I Additional Sub-Ordinate Judge, Coimbatore notice served on 25.02.2009 seeking to set aside and consequently enhance the award made.

For Appellant in Appeal & 1st Respondent in Cross Obj. : Mr.P.Gunasekaran Additional Government Pleader

For Respondents 1 to 10 in Appeal & Appellants in Cross Obj : Mr.M.Devaraj

COMMON JUDGMENT

This appeal arises out of the land acquisition proceedings. An extent of 67.13.0 hectares of land was acquired for the purpose for formation of lake in Chinnavedampatti Village. The 4(1) notification under the Land Acquisition Act, 1894 was issued on 27.04.1988. After considering 127 sales that had taken place in the village, the land acquisition officer fixed the compensation at Rs.74,100/- per acre. Not satisfied with the said award, the land owners sought for a reference under Section 18 of the Land Acquisition Act. The references were made to the Sub Court, Coimbatore.

2. The said reference relating to the lands belonging to the respondents in this appeal namely an extent of 0.15.5 hectares in Survey No.167/2 and 0.72.5 hectares in Survey No.175/1A2 related to the Land Acquisition Original Petition numbered as LAOP No.10 of 2004. There were several other Land Acquisition Original Petitions with reference to the same acquisition and they were numbered as LAOP Nos.10,14 to 16 and 18 to 21 of 2005. In those LAOPs, which were pending before the Ist Additional Sub Court, Coimbatore, by a common award dated 10.03.2008, the learned Subordinate Judge fixed the compensation payable to the land owners at Rs.2,400/- per cent. The said value was arrived at after taking into account the market value of the land as per the sale deed Ex.C1 dated 16.07.1986. As per Ex.C1, it was found that the market value of the lands acquired is Rs.3,60,000/- per acre and after deducting 33% for the vastness in area, the learned Ist Additional Subordinate Judge, Coimbatore fixed the compensation payable at Rs.2,400/- per cent, equivalent to Rs.2,40,000/- per acre. The said common order passed by the learned Ist Additional Sub Judge, Coimbatore in the said LAOP was challenged before this Court in AS Nos.211 to 222 of 2009. A Division Bench of this Court, by a common judgment dated 05.04.2017, dismissed all the appeals as well as the Cross Objections holding that the land owners would be entitled to a sum of Rs.2,400/- per cent along with all other statutory benefits. It is not in dispute that the lands subject matter of this appeal, are covered by the very same 4(1) notification and the same award. Therefore, the said judgment of the Division Bench would cover the issue in this appeal also.

3. Mr.M.Devaraj, learned counsel appearing for the land owners/cross objectors would submit that the learned Trial Judge in this case had concluded that the value of the land is Rs.3,65,000/- per acre, and a deduction of 33% may be adopted. But however, while fixing the value, the learned Trial Judge had fixed the value at Rs.2,00,000/- per acre, which according to the learned counsel for the land owners is not correct. If the value of the land is fixed at Rs.3,65,000/- per acre and 33% is deducted, the value of the land would be

Rs.2,41,200/- and not Rs.2,00,000/-. The Cross objection has also been filed by the land owners claiming a sum of Rs.10,00,000/- per acre.

4. Mr.P.Gunasekaran, learned Additional Government Pleader (AS) appearing for the appellant would however contend that the deduction should be for vastness in area and there could a further deduction for developmental charges. I do not think such an argument could be countenanced.

5. Admittedly, the acquisition is for formation of the lake and therefore, there cannot be any deduction on the ground of developmental charges. The entire land is going to be utilized as it is. It is not an acquisition for any having scheme where certain amount of land is left out for formation of roads and other facilities. Therefore, in an acquisition particularly for formation of lake, I do not think that deduction for developmental charges could be applied. However, considering the fact that Ex.C1 relates to a smaller area, there should be a deduction when large tract land is acquired. The value of the land in a sale deed relating to smaller extent of land that cannot be taken as a guiding factor.

6. Therefore, a suitable deduction has been recommended by this Court as well as the Hon'ble Supreme Court in such cases and it has finally been determined that such deduction could be generally to the tune of 33%. The trial Court had, in fact, come into the conclusion that, as per the Ex.C1, the value of the land would be Rs.3,60,000/- per acre, adopting a deduction of 33% the value of one acre comes to Rs.2,41,200/-, and the Division Bench has rounded of the same to Rs.2,40,000/-. Therefore, I do not find any reason to take a different view from that of the Division Bench.

7. Thus the appeal is dismissed, Cross Objection is allowed partly and the respondents/land owners would be entitled to a sum of Rs.2,40,000/- per acre (Rs.2,400/- per cent) as compensation for the lands acquired along with the statutory benefits, namely the additional amount under Section 23(1-A) of the Land Acquisition Act, 30% solatium and interest at 9% for one year from taking the possession and thereafter at 15% till date of payment. There will be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jv

To

1.The I Additional Sub-Ordinate Judge,
Coimbatore.

2.The Section Officer,
V.R.Section,
Madras High Court.

+2cc's to Mr.M.Devaraj, Advocate, S.R.No.67492
+1cc to the Government Pleader, S.R.No.66986

A.S.No.658 of 2008
and
Cross Objection No.16 of 2017

SV(CO)
CA(06/11/2017)

R.SUBRAMANIAN,J.

Jv