

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Appeal Suit No. 217 of 2004

The Special Tahsildar (LA)
Maraimalai Nagar Scheme
Maraimalai Nagar
Chengalpattu

... Appellant/Respondent

Versus

1. Ramadoss Naidu (deceased)
2. The Chief Executive Officer
Madras Metropolitan Authority
Madras - 600 008 ... 2nd Respondent/2nd Respondent
3. Tmt. Lakshmikantham
4. Mr. Padmanabhan
5. Mrs. Kalavathi
6. Mrs. Dilli Bai
7. Mrs. Suguna
8. Mr. Prakash
9. Mr. Suresh ... 3 to 9 Respondents/Claimants

(Respondents 3 to 9 were brought on
record as legal heirs of the deceased first
respondent as per order dated 13.04.2016
in CMP Nos. 506 & 507 of 2015)

.. Respondents

Appeal filed under Section 54 of The Land Acquisition Act,
1894 against the Judgment and Decree dated 23.08.2002 made in
LAOP No. 1 of 1996 on the file of the Principal Subordinate
Judge, Chengalpattu

For Appellant : Mr. S.T.S. Murthi,
Additional Advocate General
assisted by Mr. P. Gunasekaran
Additional Govt. Pleader (AS)

For Respondents: Mr. C. Johnson for R2

Mr. K.M. Vijayan, Senior Advocate
for M/s. La and Law for RR3 to 9

JUDGMENT

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

Being aggrieved by the enhancement of the compensation awarded by the learned Principal Subordinate Judge, Chengalpattu in LAOP No. 1 of 1994 enhancing the compensation amount awarded by the Land Acquisition Officer from Rs.12.50 to Rs.3,000/- per cent, the Land Acquisition Officer has come forward with this Appeal Suit.

2. The deceased first respondent was the owner of the land comprised in Survey No.7/2 and 19/2A measuring an extent of 1.16 acres and another land in Survey No.58 measuring 5.80 acres in Chithamanur Villages, Chengalpattu Taluk. The land in Survey No.58 measuring 5.80 acres owned by the deceased first respondent was acquired by the appellant for formation of a new Satellite Town known as Maraimalai Nagar. The Draft notification under Section 4 (1) of The Land Acquisition Act was approved vide G.O. Ms. No.1934, BD & LA Department dated 22.08.1974 and it was also notified in the Government Gazzette on 16.10.1974. After complying with the formalities, the Land Acquisition Officer passed an award on 29.07.1988.

3. As regards the delay in passing the award from the date of issuing the notification under Section 4 (1) of The Land Acquisition Act, it was stated that such delay is attributable due to the filing of the Writ Petition in WP No. 8496 of 1984 by the deceased first respondent in which this Court passed an order dated 03.04.1987 restraining the acquisition authorities from dispossessing the deceased first respondent, however, permitted them to proceed further with the acquisition process. Therefore, It was stated that the delay in passing the award is not attributable on the part of the Land Acquisition Officer.

4. As far as fixation of compensation for acquired lands, the Land Acquisition Officer has taken into consideration 21 sale transactions out of which, the transaction relating to the land measuring to an extent of 0.40 cents in Survey No.43/1A was taken as data land for the purpose of fixing the value for the acquired lands. As per the sale deed dated 12.04.1972, an extent of 0.40 cents in S.F. No.43/1A, being the data land, was sold for Rs.500/- and value of land per cent was calculated at Rs.12.50. Therefore, the Land Acquisition Officer has taken the value indicated in the sale deed dated 12.04.1972 and passed the award fixing the market value for the acquired land at Rs.12.50 per cent. Accordingly, the value of the acquired land was fixed

at Rs.7,250/- for 5.80 acres of land, the value of the pump shed was fixed at Rs.814/- and the value of the well was assessed at Rs.8,916/-. Thus, a total sum of Rs.16,980/- was awarded by the Land Acquisition Officer, for which 30% solatium was awarded which worked out to Rs.22,074/-. Further, the Land Acquisition Officer has awarded 12% additional amount on the market value of the land which worked out to Rs.22,765/-, taking the total compensation amount for the acquired lands at Rs.44,839.00.

5. Being dissatisfied with the value fixed for the acquired land, the deceased first respondent/land owner has sought for a reference as contemplated under Section 18 of the Land Acquisition Act. On reference being made, the Principal Sub Court, Chengalpet has taken the reference on file as LAOP No. 1 of 1996.

6. Before the Reference Court, the deceased first respondent examined himself as CW1 and one Ponnusamy was examined as CW2 and Exs. C1 to C3 were marked. On behalf of the Land Acquisition Officer, one Mr. A. Balaraman was examined as RW1 and Exs. R1 and R2 were marked. The Reference Court, based on the value fixed under Ex.C3, copy of the letter dated 14.07.1999 sent by the Special Tahsildar (Land Acquisition), Madras Metropolitan Development Authority to the deceased first claimant, has come to the conclusion that compensation for the land, which is lying adjacent to the acquired land, was fixed at Rs.3,000/- per cent. The Reference Court further concluded that the Land Acquisition Officer himself has admitted that the value for the land, which is lying adjacent to the acquired land, was fixed at Rs.3,000/- per cent and therefore, enhanced the compensation for the acquired land from Rs.12.50 per cent to Rs.3,000/- per cent. Aggrieved by the said order passed by the Reference Court, the present Appeal Suit has been filed by the Land Acquisition Officer.

7. When the appeal was taken up for hearing, this Court, by Judgment dated 20.04.2004, reduced the compensation amount to Rs.374/- per cent from Rs.3,000/- per cent. Thereafter, the claimant has filed a Petition in CMP No. 13611 of 2004 in A.S. No. 217 of 2004 to modify the decree and judgment dated 20.04.2004 alleging that in a similar case i.e., in A.S. No. 1213 of 1994, this Court awarded a sum of Rs.3,000/- per cent. But, this Court, on perusal of the Judgment referred to by the appellant in A.S. No. 1213 of 1994 (arising out of LAOP No. 134 of 1991) found that the Division Bench of this Court has fixed only Rs.100/- per cent and hence, this Court reduced the compensation amount to Rs.100/- per cent from Rs.374/- per cent

by Judgment dated 15.10.2004 by stating that in A.S. No. 1213 of 1994, this Court has fixed only a sum of Rs.100/- per cent as compensation for the identical lands. Aggrieved by the same, the deceased first respondent filed Civil Appeal No. 7114 of 2008 (arising out of SLP No. 18918 of 2006) before the Honourable Supreme Court. By Judgment dated 04.12.2008, the Honourable Supreme Court, remanded the matter back to this Court with a direction to dispose of the appeal suit in accordance with law after affording opportunity to the parties.

8. After remand by the Honourable Supreme Court, this Court has taken up the above appeal for hearing. After hearing the counsel for both sides, this Court, by order dated 07.07.2010, passed the following order:-

"12. Order 41, R.25 CPC contemplates that the first Appellate Court, if deemed fit, shall direct the trial Court to take the additional evidence required. Since there is total lack of evidence, we feel it necessary to afford an opportunity to both sides to let in oral and documentary evidence to arrive at the valuation of the property at the time of Sec. 4 (1) notification (16.10.1974). Reference Court/Principal Subordinate Judge, Chengalpattu is directed to record evidence of claimant, both oral and documentary evidence and also afford opportunity to LAO as well as CMDA to cross-examine the witnesses. Reference Court shall also afford opportunity to the Land Acquisition Officer and CMDA to adduce further evidence with regard to the then market value prevailing at the time of 4 (1) notification (16.10.1974) and also afford opportunity to the LAO in explaining Ex.C-3, Copy of letter correspondence.

13. Having regard to the facts and circumstances of the case, Reference Court/Principal Subordinate Judge, Chengalpattu is directed to record further evidence (both oral and documentary) and send the recorded evidence and documents, if any, marked by both parties to this Court within a period of six weeks from the date of receipt of copy of this order. Reference Court is also directed to send back the records sent by the High Court along with recorded evidence.

Both parties are directed to cooperate with the Reference Court for recording evidence and marking of documents, if any.

Both parties are directed to appear before the Reference Court/Principal Subordinate Judge, Chengalpattu on 16.07.2010."

9. Pursuant to the directions issued by this Court in the order dated 07.07.2010, it is stated that the evidence of one Suganthi and Ezhumalai, who are adjacent land owners, have been recorded by the Reference Court on 26.07.2010 as additional evidence and thereafter, this appeal is posted before this Court for hearing.

10. The learned Additional Advocate General appearing for the appellant, assailing the amount of Rs.3,000/- per cent fixed by the Reference Court, submitted that the Reference Court, by erroneously placing reliance on Ex.C3, proceedings dated 14.07.1999 of the Special Tahsildar, Maraimalai Nagar, fixed the compensation amount for the acquired land. According to the learned Additional Advocate General, the Reference Court failed to consider that the lands covered in the proceedings dated 14.07.1999, Ex.C-3 relating to the lands given to Ford Car Company by private negotiation and the same will not form the basis for fixing the market value for the acquired lands. The lands covered under Ex.C-3 were given to Ford Car Company after a settlement was arrived at with the land owners and the Company and the same will not be taken into account for fixing the market value for the acquired lands. So far as the acquired lands are concerned, it was not acquired for the purpose of establishment of Ford Car Company. On the other hand, the acquired lands were utilised for the purpose of formation of a new satellite Township called Maraimalai Nagar. Therefore, according to the learned Additional Advocate General appearing for the appellant, the sum of Rs.3,000/- per cent fixed as compensation included both land compensation and displacement allowance and the respondents/claimants cannot place reliance on the compensation fixed for the lands which were given to the Ford Car Company. When the acquired lands did not form part of the lands given to Ford Car Company for private negotiation, the Reference Court is not justified in placing reliance on Ex.C3 to fix the compensation for the acquired lands at Rs.3,000/- per cent. Therefore, the learned Additional Advocate General prayed for setting aside the award passed by the Reference Court.

11. On the other hand, the learned Senior Counsel appearing for the respondents 3 to 9, who are the legal heirs of the deceased first respondent, would contend that even though, by private negotiation, the adjacent lands were given to Ford Car Company at the rate of Rs.3,000/- per cent, when the acquired lands are also situated just adjacent to the lands given to the said Company, the same yardstick has to be adopted in fixing the market value for the acquired lands at Rs.3,000/- per cent. The

Reference Court is wholly justified in relying on Ex.C3, the contents of which were also admitted by the Land Acquisition Officer during the course of his examination before the Reference Court. While so, the value fixed by the Reference Court at Rs.3,000/- per cent needs no interference by this Court. When the lands, which are lying adjacent to the acquired lands, were given to Ford Car Company, even by private negotiation, the value fetched by private negotiation will equally be construed as the value for the acquired land as well. Even the lands which are the subject matter of this appeal was also allotted to private company for a higher price and that the acquired lands were not used for the purpose for which it was acquired by the appellant namely for establishment of a satellite town. Therefore, the learned Senior counsel for the respondents 3 to 9 prayed for dismissal of the Appeal.

12. We have also heard the submission of the learned counsel for the second respondent and perused the materials placed on record.

13. The Reference Court has fixed compensation for the acquired lands at Rs.3,000/- per cent by placing reliance on Ex.C3. Ex.C3 is the letter written by the Special Tahsildar to the claimant/deceased first respondent herein. The Reference Court has also taken into consideration of the evidence of the claimant/deceased first respondent, as CW1, who has deposed that the land, which is lying adjacent to the acquired land, was sold to Ford Car Company by private negotiation and therefore, the same amount has to be fixed for the acquired lands as well. Further, during the Cross-examination of RW1, Land Acquisition Officer, an admission was made to the effect that the land in question is nearer to the lands acquired by the Ford Car Company for which an amount of Rs.3,000/- per cent was paid as compensation. When once the value for the adjacent land was fixed at Rs.3,000/-, there is no justification to deny the claimant the same benefit. In such view of the matter, we see no reason to interfere with the order passed by the Reference Court fixing a sum of Rs.3,000/- per cent for the acquired lands.

14. At this stage, the learned Additional Advocate General would submit that as far as payment of interest is concerned, the claimants are not entitled for interest during the period when the writ petition was filed by them was pending before this Court. We see considerable force in such submission of the learned Additional Advocate General appearing for the appellant. Accordingly, while confirming the order passed by the Reference Court, we make it clear that the respondents 3 to 9/claimants are not entitled for payment of interest from the date of filing WP No. 8496 of 1984 till the date of it's disposal by this

Court. In all other respects, we confirm the award passed by the Reference Court.

15. Accordingly, the Judgment and Decree dated 23.08.2002 made in LAOP No. 1 of 1996 on the file of the Principal Subordinate Judge, Chengalpattu is confirmed. Consequently, the Appeal Suit stands dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Subordinate Judge
Sub Court, Chengalpattu
2. The Chief Executive Officer
Madras Metropolitan Authority
Madras - 600 008
3. The Section Officer,
VR Section, High Court.

+1cc to M/s.La and Law, Advocate, S.R.No.60874
+1cc to the Government Pleader, S.R.No.61335

A.S. No. 217 of 2004

CNR(CO)
CS/10/11/17

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