



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.05.2017

DELIVERED ON : 01.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

A.S.(MD)No.170 of 2016

&

C.M.P.(MD)No.10843 of 2016

The Deputy Chief Engineer

[Constructions],

Southern Railway,

Salem.

...Appellant/Beneficiary

Vs.

1.E.K.Subramanian

...Claimant/Respondent

2.The Special Tahsildar (LA),
Salem Karur New Broad Gauge,
Railway Line Scheme,
Karur.

...Referring Officer/Respondent

PRAYER: Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the judgment and decree, dated 28.03.2012, passed in L.A.O.P.No.102 of 2010, by the learned Principal Subordinate Judge [Land Acquisition Claims Tribunal], Karur.

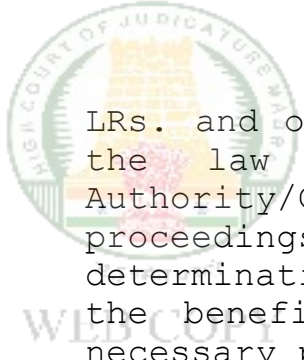
For Appellant : Mr.S.Manohar
For R1 : Mr.Raguvaran Gopalan
For R2 : Mr.R.Velmurugan
Govt.Advocate.

JUDGMENT

This Appeal Suit in A.S.(MD)No.170 of 2016 has been filed by the Deputy Chief Engineer [Constructions], Southern Railway, Salem, who is the beneficiary under the Land Acquisition Proceedings initiated by the Referring Officer, who has been shown as second respondent, namely, the Special Tahsildar (LA), Salem-Karur New Broad Gauge, Railway Line Scheme, Karur.

2.The first respondent was the claimant before the Land Acquisition Claims Tribunal.

3.It is stated that the appellant was not a party to the proceedings before the Tribunal. The appellant was a beneficiary under the Land Acquisition Proceedings. After the award was passed, and after much considerable delay, the appellant herein had sought leave to file the Appeal Suit. The leave was sought on the ratio laid down in a Constitutional Bench judgment of the Hon'ble Supreme Court of India reported in 1995 (2) SCC 326 [U.P. Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) By



LRs. and others], wherein the Hon'ble Supreme Court had laid down the law that in Land Acquisition Proceedings, a Local Authority/Company has a right to appear and adduce evidence in proceedings before the Collector and Reference Court before determination of compensation. It was further held that though the beneficiary of the Land Acquisition Proceedings are not a necessary party, they are however, a proper party.

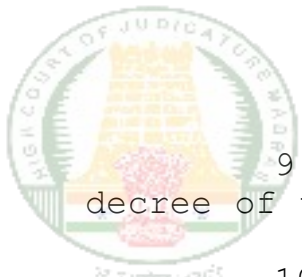
4.This Court had earlier considered the application for seeking leave to file the appeal and had also granted leave to file the Appeal suit. Consequently, the appeal is now before this Court and the learned counsel Mr.S.Manohar, who appeared for the appellant, put forth his arguments.

5.Mr.Raguvaran Gopalan, appeared for the first respondent/claimant and he pointed out a judgment reported in AIR 1991 SC 1320 [Krishi Upaj Mandi Samiti Vs. Ashok Singhal and others] and stated that when the beneficiary had accepted the award of the Reference Court, it would not be open to the authority to assail the correctness of enhancement made by the Court of Reference.

6.It is indeed correct that the settled point of law involved and applicable to the present appeal is that this Court cannot go behind or beyond the evidence already recorded. It has also transpired during the arguments that pursuant to the notification for acquisition of land for the formation of broad railway line from Salem to Karur, a large extent of land was acquired and several independent and separate Awards have been passed by the Reference Court. Thereafter, since the amounts were not deposited as directed, Execution Petitions were also filed. It was at that time that the appellant woke up and filed Civil Revision Petitions before this Court. This Court had directed deposit of the entire award amount and it has been stated by both the learned counsels that the amounts were already deposited and also withdrawn by the claimants. However, Mr.S.Manohar, learned counsel for the appellant insisted that this Court should re-appreciate the evidence on record to determine whether the award passed which is under challenge is within the parameters of law.

7.This Appeal has been filed challenging the award, dated 28.03.2012, passed in L.A.O.P.No.102 of 2010, by the Land Acquisition Claims Tribunal/Principal Subordinate Judge, Karur.

8.In the grounds challenging the judgment, it had been primarily stated that the lands have not been acquired for commercial purpose, but only for broad gauge railway lines. It had been further stated that the lands are soft rock/hard rock and ~~are not suitable~~ lands. It had been further stated that the lands are not close to the Highway. It had also been stated that the interest granted should be revised.



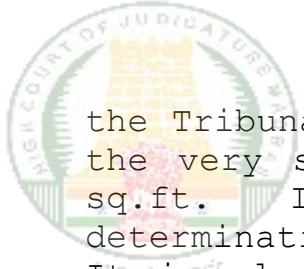
9. I have carefully gone through the impugned judgment and decree of the Tribunal and the evidence recorded.

10. 0.16.0 Hectares of land in S.No.815/2 at Vaangal Village was acquired for the formation of broad railway line from Salem to Karur.

11. The Chief Engineer [Constructions], Southern Railway, who is a Superior Officer to the appellant had sought acquisition of lands for broad gauge line from Salem to Karur. A Special Officer, Land Acquisition, was appointed. Notification under Section 4(1) of the Land Acquisition Act had been issued in the Tamil Nadu Government Gazette on 05.12.2007 and in Dinakaran Newspaper on 12.12.2007 and the Acquisition Officer had after due process which have not been challenged, fixed the value of the land at Rs.5,43,400/- for one hectare by award dated 30.07.2009. This award has been challenged before the Tribunal and it was contended that the rate per square feet should have been fixed. It had also been stated that the Land Acquisition Officer had failed to consider the potentiality of the acquired lands. The lands are said to be situated close to Karur Town, Railway Station and National Highway. During trial, on the side of the claimant, he himself examined as C.W.1. The Referring Officer, Special Tahsildar, Land Acquisition, was examined as R.W.1 and two documents were marked as Ex.R.1 and Ex.R.2. Ex.R.1 is the price fixation order and Ex.R.2 is the Sketch. On the side of the claimant, Ex.C.1 - Sale deed and Ex.C.2 - a copy of the judgment have been marked.

12. The short point to be decided in this appeal is whether the award fixing the value of the acquired lands at Rs.26/- per sq.ft. and the further conditions of deposit within three months and with 12% interest per annum from the date of 4 (1) Notification till the date of possession and 30% solatium in addition to the market value together with 9% interest for the first year and thereafter, 15% interest should be interfered or not.

13. A careful perusal of the records reveals that the witness examined on the side of the second respondent/R.W.1 had admitted that the Acquisition Officer had taken into consideration only one sale deed and had not considered any different sale deeds. It is also on record that Karur Town is famous for Handloom Industry, earning huge foreign exchange. There is also large scale manufacture of Mosquito Nets and the Town is also famous for building of bus bodies. The potentiality of increased passenger and cargo traffic in the Railway Station in view of conversion of the railway services was also admitted. Huge labourers would utilise the railway services to go to their Industries. Schools are also situated near the acquired lands. Apart from all these aspects,



the Tribunal also found that with respect to the lands acquired in the very same Vaangal Village, the Tribunal had fixed Rs.26 per sq.ft. It had been admitted by R.W.1 that as against such determination of value, the respondent had not filed any appeal. It is also stated that the amount had also been deposited into Court. While different litigants are approaching the Court seeking similar relief, the Court should ensure that there is uniformity. In these cases, the litigants in Vaangal Village have been awarded compensation at Rs.26/- per sq.ft. The appellant herein has not produced any additional evidence to convince this Court to disturb the ground adopted for determination of that value. The learned counsel was also fair enough to state that the amounts have also been deposited and withdrawn by the claimant. A feeble argument was put seeking the Court to revise the interest. However, it is seen that the acquisition proceedings had commenced nearly more than 25 years back and the claimant should not be made to suffer loss of interest, particularly, since the value awarded is substantially lower than the market value. Consequently, grant of interest is also justified.

14. For all these reasons, I find no justification to interfere with the judgment and decree, dated 28.03.2012, passed in L.A.O.P.No.102 of 2010, by the learned Principal Subordinate Judge [Land Acquisition Claims Tribunal], Karur. Hence, the appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar.

To

1. The Principal Subordinate Judge,
[Land Acquisition Claims Tribunal], Karur.
2. The Special Tahsildar (LA), Salem Karur New Broad Gauge,
Railway Line Scheme, Karur.
3. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.S.Manohar, Advocate, SR.No.58205
+1CC to Mr.K.Prabhakar, Advocate, SR.No.58464

Judgment in
A.S. (MD) No.170 of 2016
01.06.2017

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