BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

A.S.(MD)Nos.172 & 173 of 2014 and
M.P.(MD)Nos.1 & 1 of 2014

A.S.(MD)No.172 of 2014

The Special Tahsildar,
Land Acquisition,
Irukkangudi Reservoir Scheme,
Sattur. .. Appellant/Referring Officer

Vs.

Muthusamy .. Respondent/Claimant

A.S.(MD)No.173 of 2014

The Special Tahsildar,
Land Acquisition,
Irukkangudi Reservoir Scheme,
Sattur. .. Appellant/Referring Officer

Vs.

Chinnakaruppasamy .. Respondent/Claimant

COMMON PRAYER: Appeal Suits filed under Section 54 of the Land Acquisition Act, against the Judgment and Decree of the learned Subordinate Judge, Sivakasi, in L.A.O.P.Nos.207 and 208 of 2002, dated 27.12.2004.

For Appellant : Mr.S.Kumar
Additional Government Pleader
For Respondents : No appearance.

COMMON JUDGMENT

A.S.(MD)No.172 of 2014 has been filed by the Special Tahsildar/Land Acquisition Officer, Irukkangudi Reservoir Scheme, Sattur, as against the award of the Land Acquisition Tribunal, (Subordinate Court), Sivakasi, in L.A.O.P.No.208 of 2002, dated 27.12.2004, whereas A.S.(MD)No.173 of 2014 has been filed by the Special Tahsildar/Land Acquisition Officer, Irukkangudi Reservoir

Scheme, Sattur, as against the award of the Land Acquisition Tribunal,(Subordinate Court), Sivakasi in L.A.O.P.No.207 of 2002, dated 27.12.2004.

2. Heard the learned Additional Government Pleader appearing for the appellant.

3. The respondent in A.S.(MD)No.172 of 2014 was the owner of the land measuring an extent of 0.16.0 Hectares in Survey No.121/2, an extent of 0.17.0 Hectares in Survey No.121/4 and an extent of 0.20.0 Hectares in Survey No.121/6, in Alampatti Village, Sattur Taluk, Virudhunagar District. Similarly, the respondent in A.S.(MD)No.173 of 2014 was the owner of the land measuring an extent of 0.06.5 Hectares in Survey No.121/5 in the same Village. Since the lands in which the subject matter of these appeals are similar and a common award was passed by the Land Acquisition Officer fixing the same rate as market value and the reference entertained by the Land Acquisition Tribunal was also disposed of by a common order, these matters are taken up together and disposed by this common Judgment.

4. It is not in dispute that the lands were acquired for the purpose of constructing a reservoir under the Irukkangudi Reservoir Scheme. The Notification under Section 4(1) of the Land Acquisition Act was published in the Gazette on 08.11.1999. After publishing the said Notification in the local daily on 02.11.1999 and on 03.11.1999, the substance of the Notification was also published in the locality on 08.11.1999. The Land Acquisition Officer passed an award on 25.09.2000. The Land Acquisition Officer fixed compensation for the lands, taking into consideration the Sale Deed dated 22.05.1995, wherein the extent of 0.55.0 Hectares in Survey No.115/2C of Panchayat land had been sold for a sum of Rs.11,560/-. Based on this document, the Land Acquisition Officer fixed the market value at the rate of Rs.21,018/- per Hectare which is equivalent to Rs.8,509/- per Acre or Rs.85/- per cent. Though the Land Acquisition Officer referred to five other documents in and around the place of acquisition and the market value shown in those documents were also on higher side, the Land Acquisition Officer chose to rely upon the Sale Deed, dated 22.05.1995. Aggrieved by the award of the Land Acquisition Officer, the respondents/claimants filed a petition seeking reference under Section 18 of the Land Acquisition Act, to fix just compensation for the lands acquired from them. The Land Acquisition Tribunal passed a common order, enhancing the market value for the acquired lands from Rs.85/- per cent to Rs.1,200/- per cent. Against the award of the Land Acquisition Tribunal, the above appeals have been preferred by the Land Acquisition Officer.

5. The Tribunal relied upon two documents. Ex.C.1 is a Sale Deed, dated 16.03.1994, which is about 5 ½ years prior to the Notification issued under Section 4(1) of the Land Acquisition Act. In this document, an extent of 30 cents was sold for a sum of

Rs.30,000/-, the market value is Rs.1,000/- per cent as on 16.03.1994. The document in Ex.C.2 is another Sale Deed, dated 03.05.1994 which is also about 5 ½ years prior to the Notification under Section 4(1) of the Land Acquisition Act. This document is in respect of a small extent of land and the sale consideration referred to in the document would show that the market value as on the date of this document is Rs.1,205/- per cent. The lands covered by these two Sale Deeds lie within a distance of 800 meters from the acquired land. The Land Acquisition Tribunal relying upon the sketch and Village map which was marked as Ex.R.2, came to the conclusion that the lands covered under the two Sale Deeds in Ex.C.1 and Ex.C.2 are located within 800 meters from the acquired land. This conclusion is not disputed by the appellant before this court. The Land Acquisition Tribunal found that the acquired lands are located within 5 Kilometers from Sattur Town. Considering the potentiality of the lands which are capable of being used as house sites and the lands are located near the industrial town, the Land Acquisition Tribunal fixed the market value at the rate of Rs.1,200/- per cent. Further the Land Acquisition Tribunal also relied upon a common Judgment dated 09.01.2004 passed in a batch of Land Acquisition Original petitions, namely, L.A.O.P.Nos.14 and 30 of 2001, wherein the market value had been determined at Rs.1,200/- per cent, came to the conclusion that the land being similar in nature and have the same potentialities, accepted the same and fixed the market value at the rate of Rs.1,200/- per cent. Aggrieved by the same, the Special Tahsildar/Land Acquisition Officer has preferred the above appeals.

6. The learned Additional Government Pleader submitted that the enhancement of the market value for the lands from Rs.85/- per cent to Rs.1,200/- per cent is arbitrary. It is further submitted that the Land Acquisition Tribunal ought to have deducted 40% of the land as per the precedents and Judgments of Hon'ble Supreme Court. The learned Additional Government Pleader also submitted that the data lands which are the subject matter of the documents in Ex.C.1 and Ex.C.2 cannot be compared with the acquired lands and that they are not within 1 Kilometer as it had been taken by the Tribunal. Though the learned Additional Government Pleader made few submissions, his main argument was on the strength of the Judgments of the Hon'ble Supreme Court in a catena of cases wherein deduction of 40% was accepted in cases of this nature where the market value has to be ascertained for large track of land, based on Sale deeds in respect of smaller extent of land.

7. In this case admittedly, the Sale Deeds relied upon by the land Acquisition Tribunal were registered 5 ½ years prior to the Notification under Section 4(1) of the Land Acquisition Act. It was also settled by the Hon'ble Supreme Court in catena of decisions that the Tribunal while fixing the market value is expected to give some allowance towards escalation of value, when the market value is fixed on the basis of comparative sale method and the sale exemplar is long prior to Section 4(1) of the Notification. Normally, the

enhancement accepted by the Hon'ble Supreme Court ranges between 10% and 15% per annum. In the case on hand, admittedly, the documents in Ex.C.1 and Ex.C.2 both are prior in point of time and the acquisition came nearly 5½ years after the Sale Deeds. Hence, the allowance of 10% per annum towards the appreciation of value is permissible especially when the acquisition was made in the year 1999 and the appreciation of the land value between 1990 and 2000 was prominently felt everywhere in the state. The contention of the learned Additional Government Pleader regarding deduction of Rs.40/- per cent is acceptable. The re-determination of market value by adding 10% of the value for each completed year towards appreciation would certainly justify the quantum fixed by the Tribunal towards the market value for the acquired lands. In that view of the matter, this Court find no merits in the above appeals. Hence, the Appeal Suits are dismissed. Consequently, connected Miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Sivakasi.

PMU
TE/PM-PN : 15/03/2017 : 4P/2C

JUDGMENT MADE IN
A.S.(MD)Nos.172 & 173 of 2014 and
M.P.(MD)Nos.1 & 1 of 2014
20.01.2017