



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2017

Date of Reserving the Judgment	Date of Pronouncing the Judgment
07.08.2017	16.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

A.S. (MD) No.176 of 2016

and

C.M.P. (MD) No.11276 of 2016

The Deputy Chief Engineer
Constructions
Southern Railway
Salem

... Appellant/Beneficiary

-vs-

Palaniyappa Gounder (Died)

- 1.Balammal
- 2.Sivagami
- 3.Samiyappan
- 4.Jeganathan

... Respondents 1 to 4/
Claimants 2 to 5

5.The Special Tahsildar (LA)
Salem Karur New Broadguage
Railway Line Scheme
Karur

... 5th Respondent/
Referring Officer

PRAYER: Appeal Suit is filed, under Section 54 of the Land Acquisition Act, to set aside the judgment and decree passed in L.A.O.P.No.96 of 2011, dated 29.03.2012, on the file of the Additional Subordinate Judge, Karur.

For Appellant : Mr.S.Manohar
For Respondents : Mr.K.Prabhakar for R1 to R4
Mr.V.Muruganandem
Additional Government Pleader for R5

JUDGMENT

The first appeal is directed against the Judgment and Decree, dated 29.03.2012, passed in L.A.O.P.No.96 of 2011, on the file of



the Additional Subordinate Court, Karur.

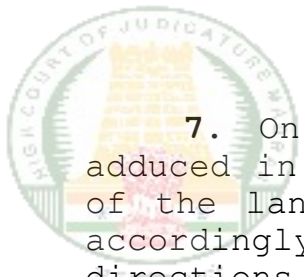
2. The lands of the claimants herein as well as the lands adjacent to the lands of the claimants belonging to the others were acquired for the formation of new Broad Gauge Railway Line from Salem to Karur, after issuing a necessary notification as contemplated under the Land Acquisition Act (hereinafter, referred to as "the Act"). Thereafter, it is found that the Referring Officer has passed an award fixing the market value of one Hectare of the lands acquired at the rate of Rs.44,383/- and for the lands covered in L.A.O.P.No.98 of 2011, the market value of one Hectare was fixed at Rs.1,77,840/-. The claimants, including the respondents herein, not being satisfied with the value fixed by the Land Acquisition Officer, preferred objections to the award and thereby a reference was made under Section 18 of the Act, for fixing just compensation.

3. It is found that all the references pertaining to the lands situated in Kuppichipalayam Village, which have been acquired for the above said purpose, had been clubbed together and it is found that the Court below has passed the impugned common Judgment in all the land acquisition original petitions.

4. The case of the claimants is that the market value of the acquired lands is not properly determined by the Referring Officer and the value of the similar lands situated nearby the subject lands were not considered by the Referring Officer and only one sale transaction was taken into consideration, which reflects a very low price and the lands in the locality of the acquired lands were converted into commercial plots or house plots and sold as per square feet rate and the Referring Officer instead of fixing the market value based on per square feet, has fixed the market value at the rate of per Hectare and according to them, the market value on the date of the notification was Rs.250/- per square feet and the acquired lands are situated in a prominent area and nearby various facilities are located such as, Railway Station, Highways and the same being a commercial area also, according to the claimants, the market value of the acquired lands should have been fixed at the rate of Rs.250/- per square feet and hence, the objections to the award.

5. The Referring Officer stood firm on his ground that the value of the acquired lands has been correctly fixed and determined and hence, there is no need for any modification of the award passed in the matter.

6. As adverted above, all the land acquisition original petitions were jointly tried and in support of the claimants' case C.Ws.1 to 6 were examined and Exs.C1 and C2 were marked and on the side of the Referring Officer (Land Acquisition), R.W.1 was examined and Exs.R1 to R12 were marked.



7. On a consideration of the oral and documentary evidence adduced in the matter, the Court below was pleased to fix the rate of the lands acquired at the rate of Rs.35/- per square feet and accordingly, passed necessary enhanced compensation with further directions. Aggrieved over the same, it is found that the beneficiary i.e., the Deputy Chief Engineer, Constructions, Southern Railway, Salem, has preferred the present appeal.

8. The following points arise for consideration in this appeal:
- i. Whether the enhanced compensation fixed by the Court below for the lands acquired is just and proper? and
 - ii. To what relief the appellant is entitled to?

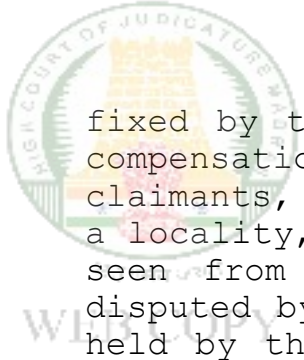
POINT NO. I:

9. The main point urged by the learned counsel appearing for the appellant is that the lands had been acquired only for the formation of new Broad Gauge Railway Line and not for commercial purpose and hence, the enhanced compensation is against the interest of the State and further it is contended that the quality of the lands not brighter and the same consisting of soft rock and hard rock and cultivation is not possible thereon and it is also contended that the compensation fixed by the Referring Officer is correct and there is no need for interference and hence, according to him, the enhanced compensation fixed by the Court below has to be reversed and set aside.

10. Per contra, it is argued by the learned counsel appearing for the claimants that the Court below has rightly enhanced the compensation at the rate of Rs.35/- per square feet taking into consideration the materials placed before it in the right perspective and hence, there is no need for any interference in this appeal and the same is liable to be dismissed.

11. As seen from the impugned Judgment and also the materials placed, it is found that based upon the evidence of C.W.6, who is found to be an independent witness, the lands acquired are located in a prime area and nearby to the same there are many industrial units, hotels, commercial complexes, shops, hospitals, schools and bus terminus and other building units and also there are frequent lorry and bus services adjacent thereby and therefore, it is found that the lands acquired is in the prime locality and therefore, it could be seen that due compensation has to be fixed for the same. It is further found through C.W.6, the sale deed dated 22.04.1998 has been marked as Ex.C1, where from it could be seen that the lands covered in that sale deed has been sold at the rate of Rs.36/- per square feet.

12. The main grievance of the claimants before the Court below was that the Referring Officer had taken into consideration only one sale deed marked as Ex.R12 for consideration while fixing the award and inasmuch as the above said sale deed reflects a very low price and not of the same potentiality of the lands acquired, the value



fixed by the Referring Officer is not correct and hence, enhanced compensation should be given. As rightly contended by the claimants, when it is found that the lands acquired are situated in a locality, where various advantages and facilities are obtaining as seen from the evidence of C.W.6, which fact has also not been disputed by R.W.1 during the course of his evidence, it is rightly held by the Court below that the lands acquired are having higher potentiality and situated in a vital area.

13. Further, the Court below has also taken into consideration the common order passed in L.A.O.P.Nos.47, 50, 90 and 124 of 2002 marked as Ex.C2 and from which, it is found that the lands covered under the above said proceedings are also situated nearby to the lands covered in this matter and the same having also been admitted by the Referring Officer, during the course of his cross-examination and further finding that for the lands covered under the common order marked as Ex.C2, which had come to be fixed at the rate of Rs.35/- per square feet and the said land and the lands covered in the said common order are adjacent lands and also having the same characteristic and potentiality and further finding that the value of the lands fixed under the common order marked as Ex.C2 not having been challenged by the Referring Officer concerned, held that the value of the lands acquired in the present case should be fixed as fixed under the common order marked as Ex.C2 and accordingly, the Court below fixed the value of the lands concerned at the rate of Rs.35/-per square feet and accordingly fixed the enhanced compensation for the lands in question.

14. As rightly found by the Court below, when the lands covered under the common order marked as Ex.C2 are situated near the lands in question and the same is also not controverted by the Referring Officer and also finding that the lands covered in the above proceedings and the lands in question are similar in all the aspects and having the same potentiality, it could be seen that the Court below had rightly adopted the value fixed under the common order marked as Ex.C2 and accordingly held that the value of the lands is to be assessed at the rate of Rs.35/- per square feet. The above finding / determination of the Court below is not shown to be against law or excessive and further it has also been admitted that no appeal has been preferred as against the value fixed for the lands covered under Ex.C2 common order, therefore, it is seen that the value of the lands covered in the subject has been rightly fixed by the Court below at the rate of Rs.35/- and therefore, the same is not to be interfered in this appeal.

15. In the light of the above discussions, I hold that the enhanced compensation fixed by the Court below for the lands acquired is just and proper. Accordingly, point No.I is answered.

POINT NO. II:

<https://hcservices.ecourts.gov.in/hcservices/>

16. In conclusion, the Judgement and Decree, passed in L.A.O.P.No.96 of 2011, dated 29.03.2012, on the file of the



Additional Subordinate Court, Karur are confirmed. Resultantly, the first appeal is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To:

1. The Additional Subordinate Judge,
Karur.
2. The Special Tahsildar (LA)
Salem Karur New Broadguage
Railway Line Scheme
Karur.

- + 1 CC TO Mr.K.PRABHAKAR, ADVOCATE IN SR No. 72798
- + 1 CC TO Mr.S.MANO HAR, ADVOCATE IN SR No. 73165
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 72921

IA/KRK

TE/MR-KKR/SAR-IV : 05/10/2017 : 5P/6C

JUDGEMENT IN
A.S.(MD) No.176 of 2016 and
C.M.P.(MD) No.11276 of 2016
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