



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

A.S(MD).No.162 of 2015

and

M.P.(MD).No.1 of 2015

The Special Tahsildar (LA),
Kovilpatti.

.. Appellant/Referring Officer

Vs.

1.Nachiyarammal
2.Ulaganathan
3.Seetharaman
4.Chokkalingam
5.Annamalai

.. Respondents/Claimants

Prayer: Appeal filed under Section 54 of the Land Acquisition Act, praying to set aside the decree, passed in LAOP.No.11 of 1998, dated 28.11.2003, on the file of the Sub-Court, Kovilpatti.

For Petitioner : Mr.S.Kumar
Additional Government Pleader

For Respondents : Mr.M.Kannan
for Mr.R.Aravindraaj

JUDGMENT

The appeal has been filed by the Special Tahsildar, Land Acquisition Officer, Kovilpatti, as against the award of the learned Sub Judge, Land Acquisition Tribunal, Kovilpatti, passed in LAOP.No.11 of 1998, dated 28.11.2003.

2.The brief facts that are necessary for the disposal of the appeal are as follows:

2.1) An extent of 0.40.5 hectares of land in Survey No.30A/3A in Vilathikulam Village was acquired by the Government for the construction of Boys Hostel for Adi-Dravidas and a notification under Section 4 of the Land Acquisition Act, 1894, was also published on 18.11.1989. The Land Acquisition Officer namely, the appellant herein passed an award on 01.07.1991, fixing the market value at Rs.50/- per cent, on the basis of the sale exemplar, dated 18.11.1989. Perusal of the sale deed dated 18.11.1989 shows that a sum of Rs.4,100/- was fixed for an extent of 80 cents, as

market value. Hence, based on that, the Land Acquisition Officer fixed the market value at Rs.50/- per cent.

2.2) Aggrieved by the quantum of compensation, the claimants sought for reference under Section 18 of the Land Acquisition Act before the Tribunal and upon reference, the Land Acquisition Tribunal relied upon a sale deed referred to in the award, where an extent of 13 ½ cents had been sold for a sum of Rs.31,900/- and enhanced the compensation for the acquired lands from Rs.50/- per cent to Rs.250/- per cent. However, the Land Acquisition Officer relied upon the sale deed that was referred to in the award of the Land Acquisition Officer in Serial No.98. Though the document was not before the Land Acquisition Tribunal, this document was taken for the purpose of determining the market value and the tribunal has determined the market value only on the basis of the award.

2.3) This Court find that the documents dated 22.08.1989, which was not marked cannot be relied upon and this Court has already taken the view that the sale deed, which was relied upon by the Land Acquisition Officer at the time of passing award, cannot be relied upon by the Land Acquisition Tribunal, without the document being marked before the Tribunal. This view is supported by the judgement of Hon'ble Supreme Court in **1995 Supp 2 SCC 40 : 1998 (3) SCC 751**.

2.4) Further it is to be seen that though the said document, dated 22.08.1989 indicates an extent of 13 ½ cents had been sold for a sum of Rs.31,900/-, the Tribunal has fixed the compensation only at Rs.250/- per cent, instead of the actual market value reflected in the said document.

3. The learned counsel for the respondents submitted that the Land Acquisition Tribunal has fixed compensation in many cases, relying upon the sale deeds, referred to in the award of the Land Acquisition Officer and that therefore the respondents were not vigilant in marking the documents before the Land Acquisition Tribunal. He therefore requested this Court to remit the matter before the Land Acquisition Tribunal, so as to give an opportunity to the respondents/claimants to produce the documents and other evidence to substantiate their claim for enhancement of compensation.

4. Though the acquisition was of the year 1989, the compensation fixed by the Land Acquisition Officer and the Tribunal cannot be considered reasonable. Even the Tribunal has failed to notice the market value as reflected in the document relied upon by the Tribunal. In such circumstances, in the interest of justice, this Court is of the view that the award of the Land Acquisition Tribunal is liable to be set aside and the matter should be remitted to the Tribunal once again, for fresh consideration in accordance with law, after giving opportunity to the claimants namely, the respondents and the appellant to lead evidence so that the Tribunal can fix just compensation for the



lands acquired by the claimants. This appeal is disposed of accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

5. The Tribunal is directed to dispose of the Land Acquisition Original Petition, within a period of three months from the date of first hearing. The parties are directed to appear before the Land Acquisition Tribunal on 20.02.2017 without fail.

6. The Registry is directed to send the records to the Court concerned forthwith.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

To

- 1.The Subordinate Judge,
The Land Acquisition Tribunal,
Kovilpatti.
- 2.The Special Tahsildar (LA),
Kovilpatti.
- 3.The Record Keeper,
V.R.Records,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to MR.R.Aravind Raj, ADVOCATE, SR NO:5165

A.S. (MD) No.162 of 2015
31.01.2017

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