

**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)Nos.73 to 77 of 2015

&

M.P.(MD)Nos.1, 1, 1, 1 and 1 of 2015

A.S.(MD)No.73 of 2015:-

The Deputy Chief Engineer
[Constructions],
Southern Railway,
Salem.

... Appellant/Beneficiary
in all AS Nos.

Vs.

1.Subrayan, S/o.Palaniappan

... Claimant/Respondent

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

... Referring Officer/
Respondent

1.Palaniyappan, S/o.Kaliyanna Gounder,
M.pudupalayam, Manmangalam Village, Karur.

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

... Respondent in AS(MD). 74/ 2015

1.Muthusamy, S/o.Kuppusamy, Puthupalayam, Karur.

2.The Special Tahsildar (LA),
Salem Karur new broadguage, Railway Line Scheme, Karur.

... Respondent in AS(MD). 75/ 2015

1.Saraiswathi, D/o.Ramasamy Gounder, Pudupalayam, Manmangalam,
Karur.

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

... Respondent in AS(MD). 76/ 2015

1.Kandasamy, S/o.Ramasamy Gounder,
Pudhupalayam, Manmangalam village, Karur.



2.The Special Tahsildar (LA),

Salem Karur new Broadguage, Railway Line Scheme,
Karur.

... Respondent in AS(MD). 77/ 2015

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PRAYER: Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the judgment and decree, dated 28.11.2011, passed in L.A.O.P.No.61 of 2011, by the learned Additional Subordinate Judge [Land Acquisition Claims Tribunal], Karur.

Prayer in AS(MD). 74/ 2015 :

Appeal Suit filed under section 54 of the Land Acquisition Act, to set aside the Judgment and Decree passed in L.A.O.P.No.66 of 2011 dated 28.11.2011 on the file of the before the Land Acquisition Claim Tribunal, Additional Subordinate Judge, Karur.

Prayer in AS(MD). 75/ 2015 :

Appeal Suit filed under section 54 of the Land Acquisition Act, to set aside the Judgment and Decree passed in L.A.O.P.No.71 of 2011 dated 28.11.2011 on the file of the before the Land Acquisition Claim Tribunal, Additional Subordinate Judge, Karur.

Prayer in AS(MD). 76/ 2015 :

Appeal Suit filed under section 54 of the Land Acquisition Act, to set aside the Judgment and Decree passed in L.A.O.P.No.75 of 2011 dated 28.11.2011 on the file of the before the Land Acquisition Claim Tribunal, Additional Subordinate Judge, Karur.

Prayer in AS(MD). 77/ 2015 :

Appeal Suit filed under section 54 of the Land Acquisition Act, to set aside the Judgment and Decree passed in L.A.O.P.No.79 of 2011 dated 28.11.2011 on the file of the before the Land Acquisition Claim Tribunal, Additional Subordinate Judge, Karur.

For Appellant : Mr.S.Manohar
(in all the Appeals)
For R1 : Mr.Raguvaran Gopalan
(in all the Appeals)
For R2 : Mr.R.Velmurugan
(In all the Appeals) Govt. Advocate.

COMMON JUDGMENT

These Appeal Suits in A.S.(MD)Nos.73 to 77 of 2015 have 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 respondent, namely, the Special Tahsildar (LA), Salem-Karur New Broad Gauge, Railway Line Scheme, Karur.



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

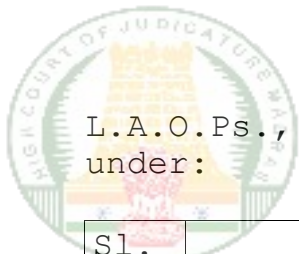
3.It is stated that the appellant was not a party to the proceedings before the Tribunal. The appellant was a beneficiary under the Land Acquisition Proceedings. After the award was passed, and after much considerable delay, the appellant herein had sought leave to file the Appeal Suits. The leave was sought on the basis of 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 appeals and had also granted leave to file Appeal suits. Consequently, the appeals are 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 respondents/claimants 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 appeals 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.These Appeals have been filed challenging the common award, dated 28.11.2011, passed by the Land Acquisition Claims Tribunal/Additional Subordinate Judge, Karur and the details of the



L.A.O.Ps., against which the appeals are filed, are tabulated as under:

Sl. No.	A.S.Nos.	L.A.O.P.Nos.
1.	A.S. (MD) No.73 of 2015 against	L.A.O.P.No.61 of 2011
2	A.S. (MD) No.74 of 2015 against	L.A.O.P.No.66 of 2011
3	A.S. (MD) No.75 of 2015 against	L.A.O.P.No.71 of 2011
4	A.S. (MD) No.76 of 2015 against	L.A.O.P.No.75 of 2011
5	A.S. (MD) No.77 of 2015 against	L.A.O.P.No.79 of 2011

8.L.A.O.P.Nos.61, 66, 71, 75 and 79 of 2011 had been tried jointly by a Memo filed by the petitioners and the respondents. Common evidence was recorded in L.A.O.P.No.79 of 2011. A common judgment was passed. Since the decrees were drafted separately as stated above, the beneficiary, namely, the Deputy Chief Engineer [Constructions], Southern Railway, Salem, had preferred separate Appeal Suits.

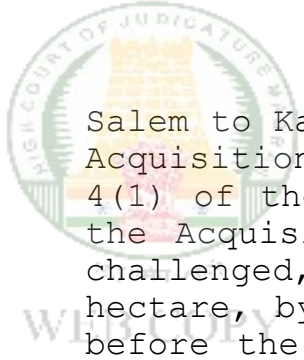
9.In the grounds challenging the judgment, it had been primarily stated that the lands have not been acquired for commercial purpose, but only for broad gauge railway lines. It had been further stated that the lands are soft rock/hard rock and are not cultivable lands. It had been further stated that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

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

11.The lands which were acquired in each of these cases are as follows:

Sl. No.	Case No.	Village	S.No.	Extent
1	L.A.O.P.No.61/2011	Manmangalam	81/14B	0.02.0
2	L.A.O.P.No.66/2011	Manmangalam	82/24B	0.00.5
			82/32	0.07.0
				0.07.5
3	L.A.O.P.No.71/2011	Manmangalam	82/25B	0.02.0
4	L.A.O.P.No.75/2011	Manmangalam	82/26B	0.04.0
5	L.A.O.P.No.79/2011	Manmangalam	82/33A	0.02.5

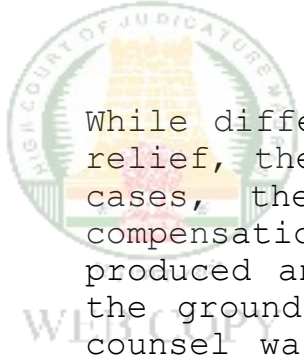
12.In all the above cases, the Chief Engineer [Construction], Southern Railway, who is a Superior Officer to the appellant had sought acquisition of lands for broad gauge line from



Salem to Karur, by letter dated 19.05.1997. A Special Officer, Land Acquisition was appointed on 21.05.1998. Notification under Section 4(1) of the Land Acquisition Act had been issued on 22.09.1998 and the Acquisition Officer had after due process which have not been challenged, fixed the value of the land at Rs.37,623/- for one hectare, by award dated 13.10.1999. 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 claimants, six witnesses namely, each of the claimants and one Palaniappan were examined as C.W.1 to C.W.6. The Referring Officer, Special Tahsildar, Land Acquisition, was examined as R.W.1 and seven documents were marked as Ex.R.1 to Ex.R.7. Ex.R.6 is the Topo-sketch of the acquired lands and Ex.R.7, dated 17.03.1998 is the copy of the Data Sale deed, on the basis of which, the Acquisition Officer had fixed the value of the land. On the side of the claimants, Ex.C.1, dated 25.02.1999-certified copy of the sale deed and Ex.C.2, dated 30.11.2010-common order passed by the learned Principal Subordinate Judge, in L.A.O.P.Nos.80 of 2002, 96 of 2002, 62 of 2010, 82 of 2010, 85 of 2010, 93 of 2010 and 103 of 2010, have been marked.

13.The short point to be decided in these appeals is whether the award fixing the value of the acquired lands at Rs.75/- 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.

14.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. R.W.1 had also further admitted that the lands are situated six kilometers from Karur Bus Stand and four kilometers from Karur Railway Station. 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 into broad gauge was also admitted. Huge labourers would utilise the railway services to go to their Industries. Schools are also situated near the acquired lands. There was also a Government Hospital. Apart from all these aspects, the Tribunal also found that with respect to the lands acquired in the very same Manmangalam Village, the Tribunal had fixed Rs.75 per sq.ft., which is found from Ex.C.2. 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 Manmangalam Village have been awarded compensation at Rs.75/- 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 claimants in several cases. 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 claimants 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.

15. For all these reasons, I find no justification to interfere with the common judgment and decree, dated 28.11.2011, passed in L.A.O.P.Nos.61, 66, 71, 75 and 79 of 2011, by the learned Additional Subordinate Judge [Land Acquisition Claims Tribunal], Karur. Hence, all these appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Additional 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.MONOHAR Advocate in SR. No.58203

+4cc to THE SPECIAL GOVERNMENT PLEADER in SR. Nos.58041 to 58044

+1cc to Mr.K.PRABHAKAR Advocate in SR. No.58466

SMN2

JS/JC/SAR.1/12.07.2017/6P-10C

Common Judgment in
A.S. (MD) Nos.73 to 77 of 2015
01.06.2017