



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 03.02.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

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Appeal Suit (MD) Nos.175 and 176 of 2013

A.S.(MD)No.175 of 2013

Special Tahsildar (Land Acquisition)
Adi Dravidar Welfare,
Virudhunagar.

...Appellant/ Referring Officer

-Vs-

1.Dhanalakshmi
2.Jeevarathinam
3.Shanmuganathan
4.Sugantha
5.Mangayarkarasi
6.Savithri
7.Swamynathan

... Respondents/Claimants

Prayer: Appeal Suit filed under Section 54 of the Land Acquisition Act, 1894, against the Judgment and Decree of the learned (Land Acquisition Tribunal) Subordinate Judge, Virudhunagar in L.A.O.P.No.22 of 1996, dated 31.03.2004.

For Appellant : Mr.S.Kumar
Additional Government Pleader
For Respondents : Mr.A.Sivaji

A.S.(MD)No.176 of 2013

Special Tahsildar (Land Acquisition)
Adi Dravidar Welfare,
Virudhunagar.

... Appellant/ Referring Officer

-Vs-

1.P.K.P.P.Manoharan
2.B.Rameswari
3.B.Saravanakumar
4.B.Selvakumar
5.N.Selvakathir
6.C.Mallika
7.C.Ponnusami
8.C.Senthilkumar
9.B.Subhasini

... Respondents/ Claimants



(Respondents 2 to 5 are impleaded as party respondents and Respondents 6 to 9 are impleaded as party respondents vide order of Court dated 22.07.2014 made in M.P.(MD)Nos.1 & 2 of 2014 in A.S.(MD)No.176 of 2013 by ASJ.)

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Prayer: Appeal Suit filed under Section 54 of the Land Acquisition Act, 1894, against the Judgment and Decree of the learned Subordinate Judge, Virudhunagar in L.A.O.P.No.23 of 1996, dated 31.03.2004.

For Appellant : Mr.S.Kumar
Additional Government Pleader
For Respondent 1 : Mr.A.Sivaji
For Respondents : Mr.S.Chandrasekaran
2 to 9

COMMON JUDGMENT

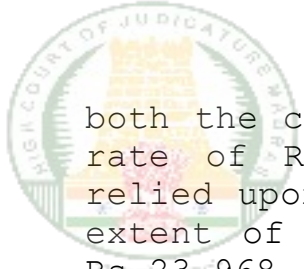
These appeals have been preferred by the Land Acquisition Officer, Adidraavidar Welfare, Virudunagar, as against the award of the Land Acquisition Tribunal (Sub Court, Virudunagar) in L.A.O.P Nos.22 and 23 of 1996, dated 31.03.2004. During the pendency of these appeals, the sole respondent in A.S.(MD)No.176 of 2013, died and the respondents 2 to 5 were impleaded as party respondents and respondents 6 to 9 were also impleaded as party respondents by order of this Court. Hence, different counsels appeared for the newly impleaded respondents. Advocate Mr.A.Sivaji, has entered appearance for the first respondent in A.S.No.176 of 2013 and Mr.S.Chandrasekaran, learned counsel has filed vakalat for respondents 2 to 9.

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

2.1.An extent of 3.64.0 hectares of land situated in Chinnamooppanpatti Village in Virudunagar Taluk was acquired by the Government for providing house sites to Adi-draavidars. The notification under Section 4(1) of the Land Acquisition Act was issued on 24.08.1989.

2.2.An extent of 6.40 acres in Survey Nos.130/3B, 131/1A2, 142, 145/1B was acquired from the claimants in L.A.O.P No.23 of 1996. Similarly, an extent of 0.59.0 hectares was acquired from the claimants in L.A.O.P No.22 of 1996.

2.3.The land Acquisition Officer has passed an award on 19.03.1989 by fixing the market value for the acquired land at the rate of Rs.180/- per cent. Aggrieved by the quantum of compensation, the claimants have filed a petition seeking reference under Section 18 of the Land Acquisition Act. Upon reference, the Land Acquisition Tribunal has passed an award in



both the cases, by a common judgement, fixing market value at the rate of Rs.2,325/- per cent. The Land Acquisition Tribunal relied upon a sale deed dated 19.12.1988 wherein a smaller extent of land measuring 6.87 cents has been sold for a sum of Rs.23,968. After detecting $1/3^{\text{rd}}$ of the amount towards developmental charges, the Tribunal fixed the market value at Rs.2,320/- per cent. Aggrieved by the award of the Land Acquisition Tribunal, the present appeals have been filed by the Land Acquisition Officer.

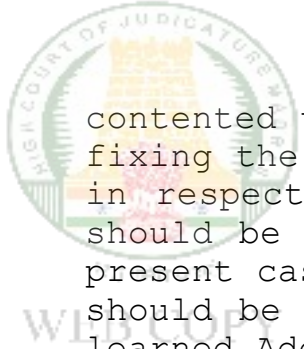
3.The Tribunal in the present case found that the acquired lands are developed lands and the sale deed marked as EX.C3 dated 19.12.1988 is in respect of the land which is located very close to the acquired land. The Tribunal has also allowed a deduction of $1/3$ towards developmental charges.

4.It is not in dispute that the acquisition was initiated only to provide house sites to Adi-dravidars. It is also not disputed that the lands are surrounded by public buildings and other institutions. Hence, potentiality of the acquired land cannot be ignored. The learned Additional Government Pleader while challenging the award of the Land Acquisition Tribunal would submit that the sale exemplar relied upon by the Land Acquisition Officer is in respect of a smaller extent of land on that the deduction should be not less than 50%.

5.As against the submission of the learned Additional Government Pleader appearing for the appellant, the learned counsel appearing for the respondents in both the cases submitted that the acquisition was initiated in the year 1989 and the claimants have already suffered on account of long delay of nearly 27 years in getting the compensation for the acquired lands.

6.The learned counsel for the respondents further submitted that the evidence of the claimants in this case ought to have been considered. The Land Acquisition Tribunal did not consider the potentiality of the land acquired. Since the acquisition is for providing house sites, the selection of the lands to be used as house sites is also relevant at least to hold that the lands have potential or is capable of being used or converted as house sites immediately. The evidence of witnesses corroborate this position. The Land Acquisition Tribunal has relied upon Ex.C3 and the conclusion of the Land Acquisition Tribunal that the land shown in the sale exemplar is very close to the acquired land is not seriously disputed. In such circumstances, the Tribunal cannot be found fault with for relying upon the sale deed dated 19.12.1988. Merely because a smaller extent of land alone has been dealt with under Ex.C3, it cannot be inferred that the deduction can be fixed above 50%. When the acquisition is for the purpose of providing house sites to adi-

dravidars, the potentiality of the land cannot be doubted. Though the learned Additional Government Pleader seriously



contented that there should be deduction on two counts, one is for fixing the market value on the basis of the document which is only in respect of the small piece of land and the further deduction should be for development. It was further contended that in the present case, at least 50% of the value shown in the sale exemplar should be deducted. I cannot subscribe to the submission of the learned Additional Government Pleader for the following reasons:

(a) The acquired lands in the present case are located very near the lands covered in the document Ex.C3. It is seen that the adjacent land surrounding the acquired lands are well developed and which can be of used as house sites. The acquisition is only for providing house sites and not for the development of lands as a town or city as contemplated under the provisions of Tamil Nadu State Housing Board. Only when development of large tract of lands are undertaken, it may be necessary to provide for 100 feet, 80 feet and 40 feet road. Further, there should be reservation of huge extent of lands for public purpose. The total extent of lands acquired in this case is less than seven acres. In such circumstances, deduction of 33% that is 1/3 is normal. Further, the notification under Section 4 (1) was issued in this case in the year 1989. The long delay in disposing of these appeals have caused considerable prejudice. In such circumstances, this Court is not inclined to entertain the plea of the learned Additional Government Pleader that the deduction should be more than 33 1/3 that is more than 1/3rd. I find that the Land Acquisition Tribunal has applied its mind to arrive at the findings on the just market value for the acquired lands and allowed just 33% deduction. For these reasons, these appeals are dismissed. However, there is no order as to costs. The respondents 2 to 9 in A.S.(MD)No.176 of 2013 were impleaded at their request without a decision on merits on their entitlement or interest. Hence, it is made clear that the impleaded persons at this stage should not be taken as an order to get compensation disbursed to them without adjudication of their rights in the manner known to law.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The Subordinate Judge, Virudhunagar.

2.The Section Officer, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.

+2 ccs to Mr.A.Sivaji, Advocate, SR.No.6679

+One cc to Mr.S.Chandra Sekar, Advocate, SR.No.6643

SRM

<https://hcservices.courts.gov.in/hcservices/> BJ/66/4P/JO/SAR1/16/6/2017

Judgment made in

Appeal Suit (MD) Nos.175 and 176 of 2013

03.02.2017