BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

A.S.(MD)No.574 of 2011 and
M.P.(MD)No.2 of 2011

The Special Tahsildar, (L.A),
Adi Dravidar Welfare Department,
Virudhunagar. .. Appellant/Referring Officer

Vs.

P.Sankaralingam .. Respondent/Claimant

PRAYER: 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.39 of 1999, dated 31.12.2009 on the file of the Subordinate Court, Sivakasi.

For Appellant : Mr.S.Kumar
Additional Government Pleader
For Respondent : Mr.P.Arun Jayatram
for Mr.D.Sakkaravarthy

J U D G M E N T

This Appeal Suit has been filed by the Special Tahsildar(Land Acquisition Officer), Adi Dravidar Welfare Department, Virudhunagar, as against the award of the Land Acquisition Tribunal, Subordinate Court, Sivakasi, in L.A.O.P.No.39 of 1999, dated 31.12.2009.

2. Heard the learned Additional Government Pleader appearing for the appellant and the learned counsel appearing for the respondent.

3. The land measuring an extent of 1.00.5 Hectares in Survey No.831/2 at Anaiyur Village was acquired from the respondent/claimant for the purpose of providing house sites to Adi Dravidars. The Notification under Section 4(1) of the Land Acquisition Act was issued on 10.10.1992.

4. The Land Acquisition Officer passed an award on 13.03.1995 fixing the market value at the rate of Rs.24,203/- per Hectare for the land acquired. Though the Land Acquisition Officer collected sale exemplars pertaining to several parcels of land, ultimately, relying upon the Sale Deed, dated 11.11.1991, pertaining to land in Survey No.669/3A and 669/3C, the Land Acquisition Officer fixed the market value. Aggrieved by the compensation fixed by the Land Acquisition Officer, the respondent/claimant sought for reference

under Section 18 of the Land Acquisition Act, to determine just compensation for the acquired lands.

5. On reference, the Land Acquisition Tribunal has fixed the market value at the rate of Rs.3,675/- per cent. Aggrieved by the same, the present appeal has been filed by the Land Acquisition Officer.

6. The Tribunal has relied upon a document marked as Ex.C.6, dated 07.05.1991. It is pertinent to note that the Tribunal has relied upon the Topographical Sketch produced by the appellant as Ex.R.3 and found that the land covered by the Sale Exemplar Ex.C.7 is very close to the acquired land. The Tribunal has found that the land covered under the Sale Deed marked as Ex.C.6 is in respect of an extent of 59.125 sq.ft and it is adjascent to the land involved in Ex.C.7. The land covered under Ex.C.6 has been sold at the rate of Rs.7,350/- per cent. Eventhough slightly lesser value is shown in Ex.C.7 and Ex.C.8, the value as per Ex.C.6 was accepted by the Tribunal. However, considering the fact that the Sale Exempler is only a small piece of land, the Tribunal has deducted 20% apart from 30% towards development charges. The other document filed by the respondent is Ex.C.7, dated 07.07.1991. In that sale deed, an extent of 630 sq.ft of land in Survey No.707/3 was sold for Rs.7,056/- and this works out to Rs.5,000/- per cent. Since the sale deed is 1 year and 3 months prior to the acquisition, atleast 10% enhancement can be allowed towards appreciation of value. Thus it works out to roughly Rs.5,500/- per cent, allowing 30% almost matches the market value determined by the Tribunal.

7. The learned Additional Government Pleader submitted that very small extent of 59 sq.ft., is involved in the Sale Exemplar and the document ought not to have been taken into consideration for fixing the market value. It should be noted that almost all the sale deeds in and around the acquired land are in respect of small extent of lands. This only indicate that the lands are dealt with as house site plots.

8. In such circumstances, the acquired land cannot be considered purely as an agricultural land ignoring the potentiality of the land. Even if Ex.C.6 sale deed is discarded, the document in Ex.C.7 sale deed, dated 07.07.1991 gives an indication that the market value can be determined at Rs.3,600/- per cent. Considering the fact that the acquisition was of the year 1992 and the appeal is disposed of nearly after 25 years, the marginal difference can be ignored. Hence, this Court find that there is no merits in the appeal. Hence, this Appeal Suit is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Subordinate Judge, Sivakasi.

2. The Record Keeper, V.R.Section,
   Madurai Bench of Madras High Court,
   Madurai.

+1 cc to M/R.D.SAKKARAVARTHI, Advocate, SR.No6126

PMU
SVA/MR/14.03.2017/3P/4C

JUDGMENT MADE IN
A.S.(MD)No.574 of 2011 and
M.P.(MD)No.2 of 2011
03.02.2017