

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2018

CORAM:

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

A.S. No.359 of 2011

Nanganallur Co-operative Housing
Building Society Ltd.,
Rep. by its Secretary ... Appellant/2nd respondents

Vs.

1. Rathinammal
2. Dhanalakshmi
3. Hemalatha
4. The Special Tahsildar (LA)
Saidapet, Chennai -15.

... Respondents/1 to 4 Claimants
and 1st Respondent

Prayer : APPEAL is filed under Section 54 of the Land Acquisition Act, 1894 and 96 of Code of Civil Procedure, against the judgement and decree dated 22.07.2010 made in L.A.O.P No.1 of 1986 on the file of the Subordinate Court, Poonamallee.

For Appellant : Mr. S. Balasubramaniam

For Respondents : Mr. P. R. Purushothaman
for R2 & R3

JUDGMENT

The appellant herein is the beneficiary of a land acquisition proceedings, and it has now approached this Court challenging an award passed by the Reference Court under Section 18 of the Land Acquisition Act, 1894 in LAOP No.1 of 1986.

2.1. The Government came up with a Notification under Section 4 (1) of the Land Acquisition Act on 02.08.1961. After complying other procedural formalities, an award was passed on 30.06.1970. The Land Acquisition Authority has determined the compensation based on the market value of the property reckoned at Rs.85/- per cent.

2.2. Aggrieved by the same, the land owners had the matter referred to the appropriate court and at the first instance the Reference Court Vide order dated 15.03.1993, enhanced the compensation payable from Rs.85/- per cent to Rs.120/- per cent. Since the State did not challenge this enhancement, the appellant herein was said to have taken up the matter in L.A.O.P No.1 of 1986, based on which, the compensation payable was re-determined and this time the Reference Court vide impugned order has enhanced the compensation payable from Rs.85/- to Rs.174/- per cent. Since the State did not prefer any appeal, again the beneficiary has now challenged stating that the compensation has been irrationally enhanced by the Reference Court.

3. Point for consideration:

Whether market value of the property as determined in the impugned judgement is not supported by evidence?

4. Heard Mr. S. Balasubramaniam learned counsel for the appellant and Mr. P. R. Purushothaman learned counsel for the respondents. Learned counsel for the appellant vehemently contended that the Reference Court has not reckoned the market value correctly and it has not taken into account the relevant data, documents and hence the compensation has been arbitrarily fixed.

5. On going through the order of the learned Sub Judge in L.A.O.P No.1/1986, this Court does not find any irregularity or impropriety in the reasoning of the courts below. The learned Sub Judge has considered Exts. A-1 and A-2, the sale deeds relied on by the landowners/claimants before the Court below, the sale deeds in Exts.B-4 to B-11 that the appellant had produced. It has taken into account the nature of the property, the proximity of the acquired property to the one in the sale deed produced by the parties. It has also reckoned that the sale deeds marked as Ext.C-1 pertain to some of the landowners whose lands have been acquired for benefit of the same appellant, and wondered why the same was not considered by the land acquisition authority.

6. It is required to be stated that it is not always possible to find a sale deed to match the property acquired on all material details, and hence there is always a space for some approximation in fixing the market value. The only restriction however, is that the value so fixed should not be fanciful, arbitrary, and appears to throw to wind all the necessary parameters that the Court are required to take into account for fixing the market value. The impugned judgement does not fall under this category since it shows that the learned Sub Judge has taken necessary pains to fix the market value, and has

helped himself with a limited space for approximation, which in the context of the available documentary evidence appears to be within the permissible limits.

7. This apart, even based on the enhancement, the total compensation, ignoring the interest, payable is only Rs.57,904/-. This Court is slightly amused that this appeal should be filed for a difference of Rs.57,904/-.

8. In conclusion, this Court does not find any merit and the First Appeal is dismissed and the judgement and decree dated 22.07.2010 made in L.A.O.P No.1 of 1986, on the file of Subordinate Court, Poonamallee is hereby confirmed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

avr

To:

1. The Subordinate Court
Poonamallee.

Copy To

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr. P.Arun Kumar, Advocate, S.R.No. 45588

+1cc to Mr. S.Balasubramanian, Advocate, S.R.No. 45534

SSI (CO)
GN (28/09/2018)

A.S. No.359 of 2011

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