

IN THE HIGH Court OF JUDICATURE AT MADRAS

Dated : 06.02.2018

CORAM :

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

AS.No.192 of 2010 and M.P.No.1 of 2010

1. The Land Acquisition Officer,
Revenue Divisional Officer,
Krishnagiri.
 2. The Secretary,
Dharmapuri Market Committee,
Mathiconpalaiyam, Dharmapuri-2. ... Appellants
- Vs.
1. P.V.Periyasamy (Deceased)
P.V.Chinnasamy (Died)
 2. P.V.Ranganathan
 3. C.K.Kamalammal
 4. P.C.Saravana
 5. P.C.Kumaran
 6. Peruma Ammal
P.Govindasamy (Died)
 7. Raja
 8. Dharman
 9. Pappathi
 10. Muniammal
 11. Krishnan
 12. Mangammal
 13. Raji
Gopal(Died)
 14. Kamala
 15. Muniraj
 16. Madesh
 17. Munirathinam
 18. Saraswathi
Manoharan(Died)
 19. Govindammal
 20. Madhian
 21. Minor Sathiya
K.Mani (Died)Rep. By next friend Govindammal,
the 19th Respondent herein)

WEB COPY

22. Senbagavalli
23. Sumathi
24. Kala
25. Mala
26. Shiyamala
27. Usharani
28. Bhuvaneswari
29. Murugan
30. Nagarajan
31. Narayanan
32. Eswaran
33. Narasimman
34. Munusamy
35. P.V.Palaniyammal
36. P.P.TamilSelvi
37. Dr.P.Chitra
38. R.Mahalakshmi
39. A.Manimekalai
40. P.Indira
41. P.P.Shiranjeevi
42. S.P.Sangeetha ..Respondents/Claimants and LRS of 1st Claimant

(RR35 to R42 are brought on record as LRs of deceased R1 vide order dated 04.01.2018 in C.M.P.No.21742 to 21744 of 2017 in A.S.No.192 of 2010)

PRAYER : Appeal Suit is filed under Section 54 of the Land Acquisition Act, to set aside the Judgment and decree passed in L.A.O.P.No.156 of 2002, dated 25.02.2009 on the file of Sub Court, Dharmapuri.

FOR APPELLANTS :MR.J.BALAGOPAL, SPL. GOVERNMENT PLEADER (AS)

FOR RESPONDENTS: MR.K.V.SUBRAMANIAN, SENIOR COUNSEL FOR
MR.P.TAMILAVEL FOR R2,4,5,14,35 TO 42

MR.G. VELUCHAN FOR RR8, 10 TO 12, 14 TO 17
& 19 TO 34 - NO APPEARANCE

MR.R.CHELLPPA FOR R7 - NO APPEARANCE

RR3 & R6, R13, R18 - NO APPEARANCE

RR 6, 9 & 12 - DIED

J U D G M E N T

P. VELMURUGAN, J.

The case of the appellant is that the land measuring to an extent of 1.50.0 hectare, spread over various survey numbers situated at Palacode Village in Dharmapuri District was acquired by the Government for the purpose of construction of regulated marketing society at Palacode. Section 4(1) notification was published in the year 1988 as contemplated under the Land

Acquisition Act, 1984 (herein after referred as to "the Act") and notices were also served and enquiry was conducted under Section 5 of the Act.

2. After following the due process of law, a draft declaration was published in the year 1989. The award enquiry was conducted under Section 11 of the Act in the same year itself. After considering various circumstances connected with the acquisition, award No.2/91 was passed on 22.08.1991, wherein the market value of the acquired land was fixed at Rs.69,160/- per hectare, adding 30% solatium and statutory benefits.

3. Assailing the award passed by the Land Acquisition Officer, the respondents/land owners requested the appellant to refer the matter before the Civil Court under Section 18 of the Act for determining the correct market rate for the acquired land and for fixing reasonable compensation. The appellant made a reference to the civil Court and deposited the award amount. The learned Subordinate Judge, Dharmapuri, being the reference Court has taken the reference on file in L.A.O.P.No.156 of 2002. The land owners filed claim petitions and the appellant filed its objections in the said L.A.O.P.

4. To substantiate the claim of the land owners, before the reference Court, C.W.1 to C.W.3 were examined and Exs.A1 to A20 were marked. On the side of the appellants, R.W.1 was examined and Exs.B1 to B6 were marked.

5. The reference Court after considering oral and documentary evidence placed before it, fixed the rate of the acquired land at Rs.140/- per sq.ft with deduction of 35% towards the development charges. The Court held that the land owners are entitled to solatium on the enhanced compensation at 30% and 9% interest for one year and after one year at 15% till the date of deposit. They are also entitled to additional amount under Section 23(1-4) of the Act at 12% per annum from the date of 4(1) notification.

6. Aggrieved against the order passed by the reference Court, the appellants have come forward with the present appeal.

7. We have heard the rival submissions made on either side and perused the original records placed before us.

8. It is not in dispute that the properties measuring an extent of 1.50.0 hectare, spread over various survey numbers situated in Palacode Village, Dharmapuri District was acquired by the Government for the purpose of construction of regulated marketing society at Palacode. 4(1) notification was published in the year 1988 as contemplated under the Act. After following

the due process of law, the draft declaration was published in the year 1989. The award enquiry was conducted under Section 11 of the Act in the same year itself and award was passed on 22.08.1991 in Award No.2/91. It is seen from the records available, that the respondents/land owners have not challenged the acquisition, quantum of award alone was disputed.

9. According to the learned counsel for the appellants, totally 106 sale deeds were taken from the office of the Sub Registrar, Palacode for determining the market value of the land acquired, out of which, 104 were rejected and have not taken up for consideration for the reasons that they are either house sites or far away from the land acquired or smaller in extent. The remaining two sale deeds in Sl.No.81 and 85 situated in S.Nos.933/1A and 933/1A2 were similar in all aspects to that of the lands under acquisition. Further, the sales in respect of Sl.No.81 and 85 reflects the present market value of the land under acquisition. Hence, the value for the land under acquisition was fixed at Rs.69,160/- per hectare, which was quite reasonable. The reference Court erred in fixing the market value on higher side.

10. According to the learned counsel for respondents/land owners, the documents which were taken up for consideration by the Land Acquisition Officer were relating to agricultural land and far away from the acquired land. The land has no facility to reach main road, whereas the acquired lands are surrounded by prime locality such as Schools, Police Station, Railway Station, Bus stand etc., and within the limit of Palacode Town.

11. On a perusal of the Ex.A8 Field Map Book, the report and plan of the Advocate Commissioner, it is very clear that the land covered under sale deeds taken up for determining the market value of the land under acquisition by the Land Acquisition Officer, were not smaller and far away from the acquired lands. Further the appellants did not disclose the survey number and details of the rejected sale deeds, which were taken up for determining the market value of the lands under acquisition. Whereas, the lands covered under sale deeds considered by the reference court for determination of market value is near to the acquired land. The acquired land is very nearer to Palacode Town, Bus Stand, Office of the Taluk Head Quarters, Police Station, Railway Station, Government Hospital, Office of M.L.A., and also the office of Transport Corporation. Considering the potentiality of the land acquired, the reference Court rejected the sale deeds in Sl.Nos.81 and 85 taken by the Land Acquisition Officer for fixing market value and independently taken the sale deeds Ex.A3 and A20 for fixing the market value and has recorded valid reasons for enhancing the market value of the acquired land.

12. In view of the above discussion, we are of the considered view that the judgment and decree dated 25.02.2009 made in L.A.O.P.No.156 of 2002 passed by the learned Subordinate Judge, Dharmapuri, does not warrant interference. The appellants have not made out any valid ground to interfere with the order passed by the reference Court.

13. In the result, the appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cgi/tar
To

The Sub Court, Dharmapuri

copy to
The Section Officer, V.R. Section,
High Court, Madras.(2 copies)

+1cc to Mr.P.TAMILVEL, Advocate, S.R.No. 8956
+1cc to the Government Pleader, S.R.No.9691

A.S.No.192 of 2010

KGK(CO)
TR(16/04/2018)

सत्यमेव जयते
WEB COPY