

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2018

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

and

THE HONOURABLE MR.**JUSTICE P.VELMURUGAN**

**A.S.Nos.962 and 964 of 2010 and
Connected Miscellaneous Petitions**

The Special Tahsildar
Adi Dravidar Welfare,
Salem

...Appellant in both Appeals

-Vs.-

1.Muthulakshmi
2.Sundaram
3.Chandrakala
4.Paniakkal
5.Vasantha Mohan
Kanagarajan (Died)
6.Srinivasan
7.Vijaya
8.Minor Boopathi
9.Minor Ramya
10.Minor Lakshmanamoorthy

...Respondents in A.S.No.962/2010

1.Paniakkal
2.Vasantha Mohan
Kanagarajan (Died)
3.Muthulakshmi
4.Sundaram
5.Chandrakala
6.Srinivasan
7.Vijaya
8.8.Minor Boopathi
9.Minor Ramya
10.Minor Lakshmanamoorthy

...Respondents in A.S.No.964/2010

Appeal Suits filed under Section 54 of the Land Acquisition Act to set aside the Award dated 18.12.2009 in L.A.O.P.Nos.1 and 3 of 1996 respectively on the file of the I Additional Sub-Court, Salem.

For Appellants : Mr.P.Gunasekaran
Addl. Government Pleader
For Respondents : Mr.P.Jagadeesan

COMMON JUDGMENT

(Judgment of the Court was delivered
by P.VELMURUGAN,J.)

This first appeals at the instance of the Special Tahsildar, Adi Dravidar Welfare, Salem, challenges the Award dated 18 December 2009 in L.A.O.P.Nos.1 and 3 of 1996 respectively on the file of the I Additional Subordinate Judge, Salem on the ground that the Reference Court enhanced the market value without the support of documents indicating higher value in the locality in question.

2. The Government of Tamilnadu acquired 1.79.0 Hectares of land at Bairoji Agraharam Village, Salem Taluk, for providing free house sites to Adi Dravidars. The notification under Section 4(1) was approved by the Government and published in the Tamil Nadu Government Gazette. It was followed by a declaration under 6 of the Land

Acquisition Act published in the Government Gazette. The Land Acquisition Officer fixed the land value at the rate of Rs.50,000/- per Acre.

3. The Land Acquisition Officer, pursuant to the request made by the respondents referred the matter to the I Additional Subordinate Court, Salem under Section 18 of the Land Acquisition Act.

4. Before the Reference Court, on the side of the claimants, four witnesses were examined. Exs.C1 to C3 were marked. On the side of the appellant, one witness was examined and Exs.R1 to R12 were marked.

5. The Reference Court after considering the oral and documentary evidence produced before it and taking into account Ex.C1 Sale Deed dated 9.11.1992 executed by Kandhasamy Gounder and two others in favour of K.Muthusamy, fixed the market rate at Rs.10/- per sq.ft.

6. Aggrieved by the order passed by the Reference Court, the Land Acquisition Officer has preferred the appeals before this Court.

7. The Land Acquisition Officer considering the nature of land and the documents effected 3 years prior to the notification and taking into account 31 documents, fixed the market rate at Rs.50,000/- per sq.ft at the relevant point of time. Whereas, the Reference Court fixed the market rate at Rs.10/- sq.ft without any basis. The land acquired is vast extent, whereas, the document considered by the Reference Court is only 1200 sq.ft. It is clear that after initiating proceedings for acquisition, for the purpose of getting enhanced compensation, the respondents have created the document. The Reference Court failed to consider this vital factor.

8. The Hon'ble Supreme Court in **Viluben Jhalejar Contractor (Dead) by Lrs. v. State of Gujarat [(2005) 4 SCC 789]** made it clear that in case of acquisition of large area for a specific purpose, deduction has to be made by way of development charges. The Supreme Court said:

"21. Whereas a smaller plot may be within the reach of many, a large block of land will have to be developed preparing a layout plan, carving out roads, leaving open spaces, plotting out smaller plots, waiting for purchasers and the hazards of an entrepreneur. Such development charges may range between 20% and 50% of the total price."

9. The Reference Court has taken Ex.C1 for considering the market rate. As per Ex.C1, the extent of land is 1200 sq.ft. The said extent was sold at Rs.15,600/-. If calculated, it is clear that the said land was sold at Rs.13/- per sq.ft. Since larger extent was acquired, the Reference Court fixed 20% for development charges and fixed Rs.10/- per sq.ft. as market rate.

10. The Reference Court placed reliance on Ex.C1. The land covered by Ex.C1 admittedly, a small extent. The acquisition in question relates to 1.79.0 hectares. The document relating to 1200 sq.ft. cannot be taken as the data document for fixing the value of large extent. The Reference Court took the valuation in its entirety without giving deduction.

11. We are of the view that Ex.C1 should be taken as the basis for determining the compensation with appropriate deduction. We are also of the view that 33% should be fixed for deduction on account of smaller extent and development charges. We therefore fix Rs.6/- per sq.ft towards the value of the acquired land. The respondents are entitled to solatium and interest in accordance with the

12. The Award dated 18.12.2009 in L.A.O.P.Nos.1 and 3 of 1996 is modified to the extent indicated above.

13. The first appeals are allowed in part. No costs. Consequently, connected miscellaneous petitions are closed.

(K.K.SASIDHARAN.,J.) (P.VELMURUGAN.,J.)

4 January 2018

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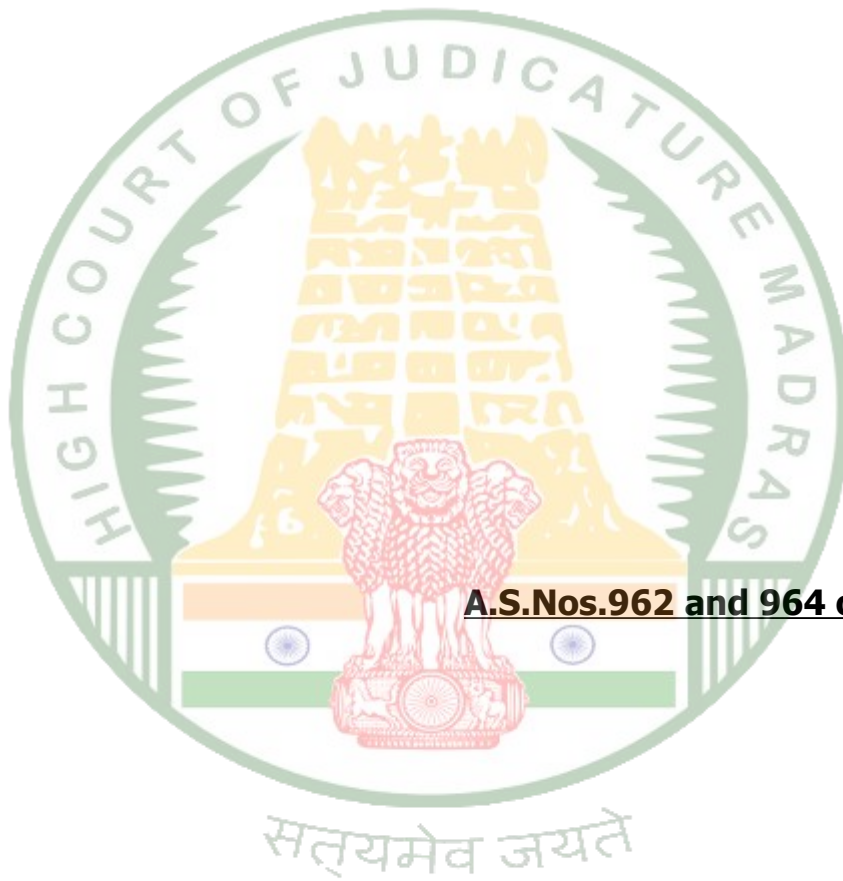
To

1.The I Additional Sub-Court, Salem.

2. The Section Officer
V.R. Section, High Court
Madras-104.

**K.K.SASIDHARAN,J.
and
P.VELMURUGAN,J.**

(svki)



A.S.Nos.962 and 964 of 2010

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