BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.09.2018
Pronounced on : 24.10.2018

Coram

The Hon'ble Mr. Justice C.V.KARTHIKEYAN

Appeal Suit (MD) Nos.75, 77 and 78 of 2014
&
M.P(MD).Nos.2, 2 and 2 of 2014

The Revenue Divisional Officer
Kumbakonam
Thanjavur District. ... Appellant/Referring Officer all the Appeals

Vs

J. Rani ... Respondent/Claimant in A.S.(MD) No.75 of 2014

B. Kamala ... Respondent/Claimant in A.S.(MD) No.77 of 2014

G. Thenmozhi ... Respondent/Claimant in A.S.(MD) No.78 of 2014

Prayer: Appeal Suits filed under Section 54 of Land Acquisition Act, praying to set aside the Judgment and decree of the Learned Principal Subordinate Judge, Kumbakonam, in L.A.O.P.Nos.99 of 2001, 12 of 2002 and 13 of 2002 dated 09.04.2013.

For Appellant : Mr.J.Gunaseelan Muthiah
Additional Government Pleader
in all the Appeals
For Respondent : Mr.T.R.Subramanian
For Mr.M.V.Santharaman
(in all the cases)

COMMON JUDGMENT

The Revenue Divisional Officer, Kumbakonam, Thanjavur District is the appellant herein and had filed the present appeals under Section 54 of the Land Acquisition Act challenging the Judgment and award in L.A.O.P.Nos.99 of 2001, 12 of 2002 and 13 of 2002 on the file of the Principal Subordinate Court, Kumbakonam dated 09.04.2013.

2. The Revenue Divisional Officer, Kumbakonam, Thanjavur District, had passed Award No.1 of 98 dated 16.02.1998, with respect to the acquisition of a total extent of 3.58.0 hectares of land for the purpose of construction of alternate road to Kumbakonam. The lands were acquired in Pandaravaadai Perumandi Village, Kumbakonam. The date of the 4(1) Notification was 21.02.1995. Possession was taken on 16.02.1998. In the award dated 16.02.1998, the Revenue Divisional Officer had fixed Rs.600/- per cent. This award was challenged before the Land Acquisition Tribunal/Principal Subordinate Court, Kumbakonam, by three claimants namely, Rani, Kamala and Thenmozhi. Rani, had filed L.A.O.P.No.99 of 2001, Kamala, had filed L.A.O.P.No.12 of 2002 and Thenmozhi, had filed L.A.O.P.No.13 of 2002. All the three land acquisition petitions came up for consideration before the Principal Subordinate Court, Kumbakonam and by a common Judgment and award dated 09.04.2013, had fixed a sum of Rs.11,772/- per cent. Challenging that award, the present first appeals had been filed by the Revenue Divisional Officer, Kumbakonam, Thanjavur District.

L.A.O.P.No.99 of 2001, L.A.O.P.No.12 of 2002 & L.A.O.P.No.13 of 2002:

3.All the three Land Acquisition Original Petitions were filed by three different claimants. The claimant in L.A.O.P.No.99 of 2001 was Rani, the claimant in L.A.O.P.No.12 of 2002 was Kamala and the claimant in L.A.O.P.No.13 of 2002 was Thenmozhi.

4. They had preferred the Land Acquisition Original Petitions being aggrieved by the fixation of the value of the land at Rs.600/- per cent. During the proceedings, they had filed three documents marked as Exs.C1,C2 and C3.

5. Ex.C1 was the sale deed with respect to the purchase by the petitioner in L.A.O.P.No.12 of 2002 - Kamala. The sale deed was dated 20.09.1988, it was about seven years prior to the date of the 4(1) Notification. The value of the sale deed was for Rs.28,800/- it was mentioned that the present value was Rs.40,800/-.

6. Ex.C2 was the sale deed in the name of the claimant in L.A.O.P.No.99 of 2001, Rani. This sale deed was dated 28.02.1994. It was one year prior to the date of 4(1) Notification. The value of the sale deed was Rs.39,960/-. The present value was stated to be Rs.57,720/-

7.Ex.C3 was the sale deed dated 25.08.1995. It was related to the house plot in S.No.27/2 in Perumandi Village. It was six months after the date of the 4(1) Notification. The value in the sale deed was Rs.27,800/-. The present value is stated to be Rs.70,560/-.

8.On the side of the respondent, Ex.R1 was marked. This was a sale deed dated 06.04.1994, about ten months prior to the date of the 4(1) Notification. It was for sale of 33 and 2/3 cents in S.No.65/2 in Perumandi Village, the consideration was Rs.20.200/-. It was an agricultural land situated about four plots away from the acquired lands.

9.The guideline value in the Sub-Registrar office was Rs.27/- per sq.ft.

10.The learned Principal Subordinate Judge, considered all the documents and calculated the value for 1 sq.ft which was Rs.17/-, in accordance with Ex.C1 document and the value per cent at Rs. 7,412/-. Further, according to Ex.C2, the value of 1 sq.ft was Rs.26/- and the value for 1 cent was Rs.11,336/-. According to Ex.C3, the value of 1 sq.ft was Rs.28/- and the value of 1 cent was Rs.12,208/-. The learned Judge took into consideration the value in Ex.C3 which was dated 25.08.1998, six months after the date of 4(1) Notification and the value in Ex.C2 which was about one year before the date of 4(1) Notification. According to Ex.C3, the present value was Rs.70,560/- which implied that value of one sq.ft was Rs.28/-. According to Ex.C2, the present value was Rs.57,720/- and value of 1 sq.ft comes to Rs.26/-. After considering these two values, the learned Judge also examined the guideline value which was Rs.27/- sq.ft. He consequently fixed the value of 1 sq.ft at Rs.27/-. Accordingly, the value of one cent namely 436 sq.ft came to Rs.11,772/-. The learned Judge fixed the value at Rs.11,772/-. It was also observed that the acquired lands were close to the road and were developed lands. The learned Judge finally fixed the value of 1 cent at Rs.11,772/-

A.S.No.75 of 2014, A.S.No.77 of 2014, A.S.No.78 of 2014:

11. Challenging that award, the Revenue Divisional Officer, Kumbakonam, Thanjavur District had filed the present appeals. Heard arguments advanced by Mr.J. Gunaseelan Muthiah, learned Additional Government Pleader for the appellant and Mr.T.R.Subramanian, for Mr.M.V.Santharaman, learned counsel for the respondent in all the cases.

12. The points to be determined in the appeals are:

> *"1. What is the value of the lands which had been acquired on the date of the 4(1) Notification, namely, 21.02.1995?*
>
> *2. Whether there should be deduction towards development charges from the value determined?*
>
> *3.* Whether the Judgment and Award of the Trial Court requires interference?"

The points discussed and answered:

13. The appellant had acquired 3.58.0 hectares of land for the purpose of laying alternate road to Kumbakonam Town. These lands were acquired in Pandaravaadai Perumandi Village. The Revenue Divisional Officer had fixed a sum of Rs.600/- per cent. Aggrieved with that, the three claimants had filed L.A.O.P.No.99 of 2001, L.A.O.P.No.12 of 2002 & L.A.O.P.No.13 of 2002, before the Principal Subordinate Court, Kumbakonam. By the common Judgment and award dated 09.04.2013, the learned Subordinate Judge had revised the rate at Rs.11,772/- per cent. Challenging that award, the present first appeals had been filed.

14. During the Trial Court proceedings, three documents had been filed by the respondents herein. Ex.C1 was the sale deed in the name of claimant in L.A.O.P.No.12 of 2002 namely, Kamala. The sale deed was dated 20.09.1988, about seven years prior to the date of the 4(1) Notification. The value in the sale deed was Rs.28,800/-. It was stated that the present value was Rs.40,800/-. Ex.C2 had also been produced, which was the sale deed dated 28.02.1994 in the name of the claimant in L.A.O.P.No.99 of 2001, Rani. By the sale deed dated 28.02.1994, was about one year prior to the date of the 4(1) notification. The value was at Rs.39,960/-. It was stated that the present value was Rs.57,720/-. Ex.C3 was the sale deed dated 25.08.1995, which was after the date of the 4(1) notification. The value in the sale deed was Rs.27,800/- and the present value was calculated at Rs.70,560/-.

15. The Trial Court taken into consideration Exs.C2 and C3. According to Ex.C2, the present value was taken at Rs.57,720/- and according to the same, the value of 1 sq.ft was Rs.26/- and the value per cent was Rs.11,336/-. According to Ex.C3, the present value was taken at Rs.70,560/- and 1 sq.ft was taken at Rs.28/-. The learned Subordinate Judge also considered the guideline value which was Rs.27/- per sq.ft and accordingly fixed the value per cent at Rs.11,772/-.

16. I hold that the award has to be necessarily interfered with because, the learned Subordinate Judge had not given the rationale behind the manner in which the present value was determined. Ex.C3 is a document which is subsequent to 4(1) notification and it would be only advisable that the said document is rejected. Ex.C1 is about seven years prior to the date of the 4(1) notification and that must also be rejected. Ex.C2, was the sale deed in the name of claimant in L.A.O.P.No.99 of 2001, Rani. This was dated 28.02.1994, about one year prior to the date of the 4(1) notification. The sale deed was valued at Rs.39,960/-. The area of the land was 2,220 sq.ft. Consequently, the value per sq.ft comes to Rs.18/-. It must also be kept in mind that the gazette notification in the present case was on 28.12.1994. Between 28.02.1994 and 28.12.1994, there could not have been much appreciation in the price. Therefore, the value of per sq.ft is taken at Rs.18/- in accordance with Ex.C2. This would mean that the value of per cent was Rs.7848/-.

17. The learned Additional Government pleader, had impressed upon the court that there must be deduction provided towards development charges. In **Land Acquisition Officer, Chittoor Vs. L.Kamalamma (AIR 1998 Supreme Court 781)**, the Honourable Supreme Court, stated as follows:

> "*Further when no sales of comparable land was available where large chunks of land had been sold, even land transactions in respect of*

smaller extent of land could be taken note of as indicating the price that it may fetch in respect of large tracts of land by making appropriate deductions such as for development of the land by providing enough space for roads, sewers, drains, expenses involved in formation of a lay out, lump sum payment as also the waiting period required for selling the sites that would be formed".

18. In that case, a deduction of 40% towards development charges was imposed by the Honourable Supreme Court. In the present case, taking in view the period of time, I hold that the ends of justice would be met if 25% is deducted towards development charges. This would mean that the value of per cent will be Rs.5,886/-. In view of the above reasoning, I hold that for the points which had been framed that the value per cent is Rs.7,848/- and after deducting 25% towards development charges, the value per cent is Rs.5,886/-.

19. Accordingly, the award of the Trial Court is interfered with and the Judgment and Award are set aside and the value of compensation is fixed at Rs.5,886/- per cent. The other portions in the Judgment, relating to interest, solatium and further interest are not interfered with. The appeals are allowed, however, in the circumstances without costs. In view of the same, all the connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar (CS-1)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Principal Subordinate Judge, Kumbakonam.

Copy To:-

The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+3 CC TO Mr.T.R.SUBRAMANIAN, ADVOCATE IN SR Nos.91308 to 91310
+1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR Nos.92049 to 92051

SMV
TE/SV/SAR-III : 21/12/2018 : 5P/8C

A.S(MD) Nos.75, 77 and 78 of 2014
&M.P(MD).Nos.2, 2 and 2 of 2014
24.10.2018