



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.12.2017

Pronounced on: 06.02.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

A.S.(MD).No.90 of 2015

The Special Tahsildar,
(South Neighbourhood Scheme)
Unit No.1, Madurai.

... Appellant / Referring Officer

Vs.

1. M.Mariappan

... Ist Respondent / Claimant

2. The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai.

... 2nd Respondent / Beneficiary

Prayer: The Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the judgment and decree made in L.A.O.P.No.2 of 2002, dated 21.03.2005 on the file of the learned Additional District and Sessions (Fast Track Court No.1) Madurai.

For Appellant	: Mr.S.Kumar, Additional Govt. Pleader
For R1	: Mr.K.Guhan
For R2	: No appearance

JUDGMENT

This appeal suit has been filed by the Land Acquisition Officer / Special Tahsildar for South Neighbourhood Scheme, against the judgment and decree, dated 21.03.2005, passed in L.A.O.P.No.2 of 2002 by the learned Additional District and Sessions Judge (Fast Track Court No.1), Madurai.

2. The present appellant, on behalf of the second respondent / beneficiary, has acquired the land comprised in Survey No.63/3B1, measuring 0.41 acre, in Survey No.63/3B3 measuring 0.41 acre and in Survey No.63/4 measuring 0.41 acre, in total 1.23 acres, out of which 61-1/2 cents was owned by the first respondent / claimant, and awarded a compensation of Rs.100/- per cent. Aggrieved by the market value fixed by the appellant / Referring Officer, the first respondent / claimant requested the appellant to refer the matter



under Section 18 of the Land Acquisition Act and accordingly, it was referred to the file of the learned Additional District and Sessions Judge (Fast Track Court No.1), Madurai and numbered as L.A.O.P.No.2 of 2002.

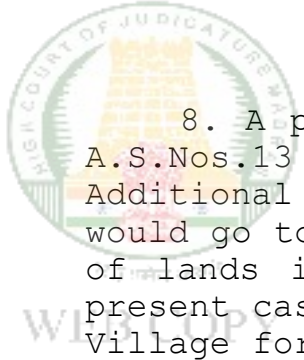
3. The learned Additional District and Sessions Judge (Fast Track Court No.1), Madurai, after considering the oral and documentary evidence produced on both sides and also based on the judgment passed by this Court in A.S.Nos.13 and 17 of 2000, dated 18.09.2003, has fixed Rs.2000/- per cent as compensation. Against the enhanced award, the present appeal has been filed by the Government.

4. The learned Additional Government Pleader would submit that the land in question has been acquired only for the purpose of Madurai South Neighbourhood Scheme formed by the Tamil Nadu Housing Board and the Referring Officer / appellant has rightly fixed Rs.100/- per cent by way of compensation. But, the learned Additional District and Sessions Judge (Fast Track Court No.1), Madurai, has erroneously fixed Rs.2000/- per cent. He would further submit that the compensation awarded on the basis of the judgment rendered in A.S.Nos.13 and 17 of 2000 by the Principal Bench of this Court, has no relevance to the land under acquisition. Relying on the decision of this Court in A.S.Nos.884 of 1992, etc. batch, dated 10.02.1999 relating to the lands acquired for the very same scheme, he would further submit that at the most, the Court below could have awarded a sum of Rs.825/- per cent and not a sum of Rs.2,000/- and the same is excessive. Under the said circumstances, the award passed by the learned Court below is liable to be modified.

5. The learned counsel for the first respondent / claimant would submit that the lands in question have been acquired for the purpose of Madurai South Neighbourhood Scheme, formed by the Tamil Nadu Housing Board and the Court below has rightly fixed Rs.2000/- per cent, based on the judgment passed by this Court in A.S.Nos.13 and 17 of 2000, dated 18.09.2003 and hence, the award passed by the Court below need not be interfered with.

6. Heard the learned counsel appearing for both sides and perused the materials available on record carefully.

7. The appellant has filed this appeal mainly questioning the quantum of award fixed by the Court below. According to the first respondent / claimant, the lands in question are situate near the Madurai - Tirunelveli National Highway - NH-47 and the adjacent lands were sold at Rs.7,000/- under Exs.C3 and C4, however, he restricted his claim to a sum of Rs.5,000/- per cent, but the Court below has awarded only a sum of Rs.2000/- per cent. According to the appellant, the lands acquired are situate two kilometers away from Madurai Town and based on the market value prevailed at the time of acquisition, he has rightly fixed a sum of Rs.100/- per cent, but the Court below, taking into consideration of a decision of this Court in A.S.Nos.13 and 17 of 2000, has erroneously passed an award of Rs.2,000/- per cent.



8. A perusal of the judgment relied on by the Court below ie., A.S.Nos.13 and 17 of 2000 and the judgment relied on by the learned Additional Government Pleader ie., A.S.Nos.884 of 1992, etc. batch, would go to show that both the cases are relating to the acquisition of lands in Thoppur Village for South Neighbourhood Scheme. The present case is also relating to the acquisition of lands in Thoppur Village for the very same scheme. However, in the case relied on by the learned Additional Government Pleader ie., A.S.No.884 of 1992, the lands were acquired long before the lands acquired in the present case and the survey numbers involved in the said case are not adjacent to the survey numbers involved in the present case and therefore, the said decision cannot be taken into consideration. But, the lands involved in A.S.Nos.13 and 17 of 2000 are only adjacent lands of the present case. There is no valid reason raised by the appellant to interfere with the value fixed by the Court below for the lands acquired. This Court is of the view that the amount awarded by the Court below cannot be held as excessive and the same does not warrant interference of this Court. Accordingly, the present appeal filed by the Government is liable to be dismissed as devoid of any merits.

9. In the result, this appeal suit fails and the same is, accordingly, dismissed, confirming the judgment and decree passed by the Additional District and Sessions cum Fast Track Court No.I, Madurai, in L.A.O.P.No.2 of 2002, dated 21.03.2005. It is represented by the learned counsel for the first respondent that the claimant is 80 years old and hence, the appellant is directed to deposit the entire award amount within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Additional District and Sessions cum
Fast Track Court No.I, Madurai.
 - 2.The Special Tahsildar,
(South Neighbourhood Scheme)
Unit No.1, Madurai.2.
 - 3.The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai.
 - 4.The Record Keeper, V.R. Section, (2 copies)
Madurai Bench of Madras High Court, Madurai.
- +One cc to Mr.V.Ramakrishnan, Advocate, SR.No.46371

gcg

<https://hservices.ecourts.gov.in/hservices/>

RL/7C/317/SRN/RSR/SAR4/13/2/2018

Judgment in

A.S. (MD) No.90 of 2015

06.02.2018