



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ
W.P. (MD) No. 5854 of 2017
and
W.M.P. (MD) No. 4662 of 2017

T.R. Dinakaran

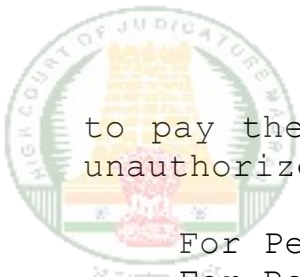
: Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Transport Department
Fort St. George, Chennai-9.
2. The District Collector,
Virudhunagar
Virudhunagar District-626 101.
3. The District Revenue Officer,
Virudhunagar.
4. The Revenue Divisional Officer,
Land Acquisition Officer,
Aruppukkottai.
5. The Tahsildar,
Aruppukkottai.
6. The Managing Director,
State Transport Corporation, Madurai Zone,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the Notification under Section 4(1) of the Land Acquisition Act, 1894, published in Tamil Nadu Government Virudhunagar District Gazette, Extraordinary in Na.Ka.D2/22052/99 dated 10.09.2014 by the 4th respondent and quash the same insofar as it relates to acquisition of lands in RS.No.301/1 (T.S.No.2/1), Ward-G, Block-13, having an extent of 0.39 acres and R.S.No.301/2, (T.S.No.2/2) Ward-G, Block-13, having an extent of 0.45 acres in Aruppukkottai Village and consequently direct the respondents to surrender the vacant possession of the lands in RS No.301/1 (T.S.No.2/1), Ward-G, Block-13 having an extent of 0.39 acres and RS No.301/2 (T.S.No.2/2) Ward-G, Block-13 having an extent of 0.45 acres in Aruppukkottai Village, Virudhunagar District and to pay damages for use and occupation from taking over occupation of the land in the year 1977 till the date of payment of compensation or



to pay the market value as on date along with damages, for their unauthorized use and occupation to the petitioner.

For Petitioner : Mr.S.Kadarkarai
For Respondents 1to5 : Mr.K.Chellapandian,
Additional Advocate General,
Assisted by
Mrs.J.Padmavathi Devi
Special Government Pleader
For Respondent No.6 : Mr.A.P.Muthu Pandian

O R D E R

The writ petitioner has filed this Writ Petition for issuance of Writ of Certiorarified Mandamus, challenging the notification under Section 4(1) of the Land Acquisition Act, 1894, dated 10.09.2014 issued by the 4th respondent, quash the same and consequently to direct the respondents to surrender the vacant possession of the lands in RS No.301/1 (T.S.No.2/1), Ward-G, Block-13 having an extent of 0.39 acres and RS No.301/2 (T.S.No.2/2) Ward-G, Block-13 having an extent of 0.45 acres in Aruppukottai Village, Virudhunagar District and to pay damages for use and occupation from taking over occupation of the land in the year 1977 till the date of payment of compensation or to pay the market value as on date along with damages, for their unauthorized use and occupation, to the petitioner.

2. Heard both sides.

3. Originally, the land acquisition proceedings was quashed by this Court in **W.P.No.3753 of 2000, dated 18.12.2009 [T.R.Dinakaran vs. The State of Tamil Nadu, Rep. by its Secretary to Government, Transport Department, Fort St. George, Chennai-9 and three others]**. A liberty was given to the respondents to issue a fresh 4(1) notification, as indicated in the order dated 18.12.2009. The respondents have not taken any action as per the direction for acquiring the land. In the meanwhile, New Act 30 of 2013 came into operation. The acquisition proceedings, therefore, could not be initiated by the respondents under the Old Act, as directed by the Court. Thereafter, 4(1) notification was issued on 10.09.2014 as per the new Act. The said acquisition proceedings dated 10.09.2014 is under challenge before this Court in the present Writ Petition.

4. When the matter was taken up for admission, a direction was issued by the Hon'ble Mr.Justice K.Kalyanasundaram to determine the quantum of compensation. Accordingly, the private negotiation between the Transport Corporation and the land owners was directed



to be facilitated by the District Collector. The District Collector, on the other hand, had taken the own of deciding the quantum of compensation and passed an order fixing the compensation at Rs.4,95,442/- (Rs.700/- per cent). The amount decided by the District Collector was not acceptable to the petitioner. Therefore, further negotiations were held in the chamber.

5. On 10.07.2018, when the matter was taken up for hearing in the chamber, this Court passed the following order:

"When the matter was taken up for hearing today, the learned counsel for the petitioner has produced seven registered documents for the purpose of assessing the market value of the property. The learned Additional Advocate General has produced the report given by the Revenue Divisional Officer, Aruppukkottai, which fixes the market value on the basis of data documents ranging from 100 Metres to 1000 Metres. According to the report, the value of the land measuring about 84 Cents comes around Rs.1,47,22,848/- in reference to registrations in Survey Nos.301/1 and 301/2. If the larger extent of land which is equivalent to the nature and texture of the soil is taken, within the radius of 800 Metres, the value is arrived at Rs.68,85,312/-.

2. Considering the response, a direction is issued to the Revenue Divisional Officer, Aruppukkottai, to furnish the recent documents registered nearest to the land in question, consisting of highest and lowest values.

3. Post the matter on 17.07.2018 at 02.15 p.m., in the chamber."

6. On 17.07.2018, when the matter was taken up for hearing in the chamber, the following order was passed:

"Today, this matter has been taken up for hearing in the Chambers.

2. Heard the submissions of Mr.S.Kadarkarai, learned Counsel for the petitioner; Mr.K.Chellapandian, learned Additional Advocate General assisted by Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents 1 to 5 and Mr.A.P.Muthupandian, learned Counsel for the sixth respondent.

3. During the last hearing, the learned Counsel for the petitioner produced certain documents containing the sale deeds registered in respect of the adjacent lands and they are:



Sl. No.	Survey Nos.	Market Value per sq. ft.	Document No.	Date of Registration
1.	296/5	Rs.1,341/-	2519/2018	05.06.2018
2.	299/7	Rs.600/-	1752/2013	10.04.2013
3.	301/4	Rs.400/-	4465/2009	03.08.2009
4.	303/78	Rs.400/-	3692/2007	19.07.2007
5.	301/4	Rs.401/-	5179/2009	07.09.2009
6.	296/4	Rs.1,341/-	3454/2017	26.10.2017

4. Earlier, this Court, by order dated 10.07.2018, directed the respondents to produce the data documents and accordingly, the documents in Document Nos.3125/2017, 3233/2017, 4329/2017, 2651/2018 and 2320/2017 have been produced before this Court.

5. On perusal of the documents in Document Nos.3125/2017 and 3233/2017, it is seen that the lands were registered at the rate of Rs.402/- per sq. ft., in the year 2017 in respect of S.No.299/7. It is surprising to note that in respect of S.No.299/7, the land was registered at the rate of Rs.600/- in the year 2013 itself. After appreciation of values year after year, it would come around Rs.900/- per sq. ft. However, the documents are registered at Rs.402/- per sq. ft. in the year 2017.

6. In order to clarify the actual market value, both the parties are directed to produce the documents registered in respect of S.Nos.299/1, 2, 3, 4, 5, 6 and 7 as well as S.Nos.298/2A, 2B, 3A and 3B.

7. List the matter on 23.07.2018 at 02.15 p.m., in the Chambers."

7. When the matter is taken up for hearing in the chamber today (23.07.2018), the Revenue Department was not in a position to provide correct value of the land. However, during the last hearing, the learned Additional Advocate General produced a document bearing Regn.No.2651/2018, dated 12.06.2018 pertaining to a property situated in Kulanthaivelpuram, 3rd street, Vellaikottai, Aruppukottai Town, Aruppukottai Sub-Registration Office, Virudhunagar Registration District, which is an interior area, adjacent to the property which is sought to be valued.



8. The learned counsel appearing for the petitioner would produce the document, which was referred under Section 47-A of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") for valuation to the District Revenue Officer, in which, the value of the property was fixed at Rs.1341/-, which is far behind the property, which is sought to be valued.

9. The learned counsel appearing for the petitioner would submit that the property is situate on the main road and the market value of the property is Rs.3,350/- per square feet. He would also produce a document bearing Regn.No.2320/17, dated 03.08.2017, which was referred under Section 47-A of the Act and value was fixed at Rs.801/- per square feet. This property is situated at Sy.No.203/2, Aruppukottai Village, Aruppukkottai Sub-Registration Office, Virudhunagar Registration District.

10. It was admitted by both sides that the property is situate beyond 60 meters away from the town.

11. Section 26 of the Act states that the higher of (a) the market value specified in Indian Stamp Act, 1899 for the registration of sale deeds or agreements to sell as the case may be, in the area where the land is situated; or (b) the average sale price for similar type of land situated in the nearest village or nearest vicinity; (c) consented amount of compensation as agreed upon in case of acquisition for PPP or private companies projects as defined in section 2(2).

12. Recently, when a document was referred for determination of market value, the District Revenue Officer had fixed Rs.1,341/- per square feet for a land which situates near the property in question. Since the market value was fixed by the District Revenue Officer by conducting spot inspection in the year 2017, that can be taken as the proper value. However, in order to give a quietus to the issue on hand, the petitioner himself has consented to receive compensation at the rate of Rs.800/- per square feet instead of Rs.1,341/- per square feet. Accordingly, the value is fixed at Rs.800/- per square feet. Therefore, the sixth respondent/Transport Corporation is directed to calculate the compensation amount, taking into consideration the solatium fixed by the Government, as per Sections 26, 27 and 30(1) of the Act. The amount should be properly calculated within three months from the date of receipt of a copy of this order. If the order is not complied with within three months, the Transport Corporation shall surrender the land in question to the petitioner, without waiting for any order from the Court and pay damages for use and occupation from taking over occupation of the land in the year 1977 till the date of payment of compensation or pay the market value along with damages, for their unauthorized use and occupation to the petitioner.



13. The Writ Petition is ordered in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

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/True Copy/

Sub Assistant Registrar(CS-IV)

To:

1. The Secretary to Government,
State of Tamil Nadu,
Transport Department
Fort St. George, Chennai-9.
2. The District Collector,
Virudhunagar
Virudhunagar District-626 101.
3. The District Revenue Officer,
Virudhunagar.
4. The Revenue Divisional Officer,
Land Acquisition Officer,
Aruppukkottai.
5. The Tahsildar,
Aruppukkottai.

+1cc to Mr.S.Kadarkarai, Advocate Sr.No.74505
+1cc to Spl.Government Pleader Sr.No.74552
+1cc to Mr.A.P.Muthu Pandian, Advocate Sr.No.74794

VS/SML

VB/KAK/SAR4/11.08.2018/6P/9C

Order made in
W.P.(MD)No.5854 of 2017
23.07.2018