



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2018

CORAM

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

A.S.(MD)No.606 of 2011and
M.P.(MD)No.1 of 2011

1. The Revenue Divisional Officer,
(Land Acquisition),
R.D.O.Office, Usilampatti,
Madurai District. ... Appellant/Referring Officer

Vs.

1.Ponnammal
2.R.Pushpavalli
3.Chellakannu @ Kannan
4.Karamani @ Rajendran
5.Gurusamy
6.Amirthavalli
7.Ramayee
8.M.Gnanamani
9.M.Deepamani
10.M.Jayamani
11.M.Soundarapandian
12.P.Dhanaraj
13.Amsamani
14.Panneerselvam
15.Deivendran
16.Pandiammal
17.Sivaraman
18.Pechiammal
19.Panaselvi
20.Sivaraj
21.Minor Ashok Kumar

(Minor rep.by his mother and natural guardian-
panaselvi)

22.Pechiammal

... Respondents 2 to 8,11 to 15,
and 17 to 26/Claimants

PRAYER: Appeal Suit filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the III Additional Sub Court, Madurai, made in L.A.O.P.No.20 of 1998, dated 19.12.2003.



For Appellant : Mr.S.Nagarajan
Special Government Pleader
For R1, R3 and R7, R9 to R11, R13 to R17,
R19 to R22 : Mr.J.Barathan
For R2 and R12 : Mr.T.S.R.Venkataramana
R8 and R18 : Dismissed vide order dated 20.08.2015

J U D G M E N T

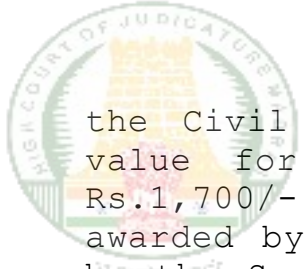
This appeal has been filed against the judgment and decree of the III Additional Sub Court, Madurai, made in L.A.O.P.No.20 of 1998, dated 19.12.2003.

2.It is admitted that the lands belonged to the respondents, measuring an extent of 1.07.5 hectare of dry land in S.No.94/9 were acquired by the Government for the construction of Bus Maintenance Depot for the then Pandian Roadways Corporation, Madurai, at Chekkanurani. It is not in dispute that the notification under Section 4(1) of the Act, was published on 03.05.1989. After the publication of the notification in the daily newspapers, on 27.04.1989. The substance of notification was published in the locality on 30.05.1989. After an enquiry under Section 5 of the Land Acquisition Act, the declaration under Section 6 of the Act was approved on 02.09.1989. The notification under Section 6 of the Act was also published in Gazette on 20.09.1989. The Land Acquisition Officer, thereafter passed an award in award No.1 of 1990 on 27.08.1990, fixing the compensation for the acquired lands at the rate of Rs.71.45/- per cent. Aggrieved by the same, it appears that the respondents have filed a petition seeking reference under Section 18 of the Land Acquisition Act and thereafter, the matter was taken up in LAOP No.20 of 1998, on the file of Additional Sub-Court, Madurai, insofar as the respondents are concerned. The designated Court on reference found that the sale deed marked as Ex-C1, dated 27.03.1989, reflects the true market value of the land, as the acquired land and the land conveyed under Ex-C3 are similar in nature.

3.The designated Court, further held that the acquired lands are capable of being used as house sites for construction of house and buildings. Though it was contended by the claimant that the market value for the lands is around Rs.25,000/- (Rupees twenty five thousand) per cent claimed that the value for the land should be fixed not less than Rupees five thousand per cent. The Civil Court has held that the market value for the acquired lands will be Rs.1,700/- per cent. Aggrieved by the same, the Land Acquisition officer has preferred the above appeal.

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

4.The learned Special Government Pleader has submitted that

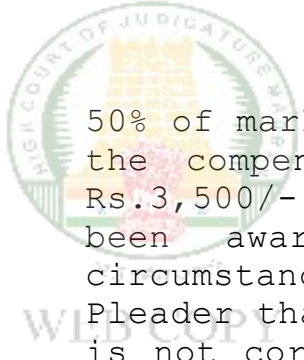


the Civil Court has not applied proper deduction and that the value for the acquired land has been exorbitantly fixed at Rs.1,700/- per cent, as against a sum of Rs.71.45/- per cent awarded by the Land Acquisition Officer. It is further submitted by the Special Government Pleader that the lower appellate Court has not followed the procedure and guidelines given by the Honourable Supreme Court in several cases. It is also submitted that the lands are acquired only for public purpose and that therefore a further deduction of 10% should be made from the market value, which has to be arrived at by comparing the values of similar lands. He further submitted that Civil Court ought to have deducted 30% towards development charges. It is further submitted that the compensation fixed at the rate of Rs.1,700/- per cent is not supported or substantiated by any acceptable evidence. The submission of the learned Special Government Pleader cannot be accepted for the following reasons:

5.The Civil Court has considered the evidence of all the claimants and the document, Ex-C1 dated 20.07.1989. The fact that the sale exemplar relied upon by the claimants was a *bona fide* transaction is not in dispute. The fact that the land, which is the subject matter of the document in Ex-C1, is also similar to the land acquired by the appellant is also not disputed. In such circumstances, this Court doesn't find any illegality or infirmity in determining the compensation by relying upon document Ex-C1. It is also relevant to mention that the appellant have not produced any documents before the lower Court, to discredit the document that was relied upon by the claimants. The trial Court has also adopted the procedure contemplated under Section 23 of the Land Acquisition Act, apart from the guidelines of this Court as well as the Honourable Supreme Court in the matter of determining the compensation on the basis of well recognized comparable sale method.

6.The learned Special Government Pleader admitted that the land covered under Ex-C1, as well as the acquired lands are similar in all respects. Hence, the contention of the learned Special Government Pleader that the judgment of the lower Court fixing compensation at Rs.1,700/- per cent is on the higher side cannot be accepted. The contention of the learned Special Government Pleader that additional deduction of 10% of the market value should be allowed, if the land is acquired for public purpose cannot be sustained, as this proposition has not been accepted by any Court and further deduction of 10% is not supported by any provisions under the Land Acquisition Act or the rules made thereunder.

7.Even in the grounds of appeal and during the submission, the learned Special Government Pleader admitted that the claimants can be given only a deduction of 30% from the market value. It is to be pointed out that the reference Court has adopted a deduction of



50% of market value. As a matter fact, as per the documents Ex-C1, the compensation arrived at for the acquired land was around Rs.3,500/- per cent, but only a sum of Rs.1,700/- per cent has been awarded by the Land Acquisition Tribunal. In such circumstances, the contention of the learned Special Government Pleader that proper deduction has not been done by the lower Court is not correct. As a result, this Court does not find any merits in this appeal and the award of the III Additional Sub-Court, Madurai, enhancing the compensation from Rs.71.45 per cent to Rs.1,700/- per cent, along with the statutory benefits cannot be faulted by this Court. Hence, this appeal is dismissed. No costs. Consequently, the connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The III Additional Subordinate Judge,
Madurai.

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

+ 1 cc TO Mr.T.S.R.Venkatramanan , Advocate in SR No. 44873

+ 1 cc TO Mr.T.R.Jeyapalam , Advocate in SR No. 45331

+ 1 cc TO The Special Government Pleader in SR No. 45251

cmr

AE/SV MMS/SAR1/07.06.2018/4P/7C

A.S. (MD) No.606 of 2011
30.01.2018