

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.10.2019

RONOUNCED ON : 23.10.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN
A.S.No.183 of 2012

The Special Tahsildar, (Adi Dravidar Welfare)
Land Acquisition Officer,
Krishnagiri.

... Appellant/Petitioner

Vs.

1. Marimuthu
2. Krishnamurthy
3. Devan
4. Srirangan

... Respondents/Claimants

Prayer: Appeal Suit filed under Section 54 of the Land Acquisition Act as against the judgment and decree of the Principal Sub Court, Krishnagiri in L.A.O.P. No.18 of 1999 dated 12.12.2007.

For Appellant : Mr.J.Balagopal,
Special Government Pleader (CS)

For Respondents: Mr.R.Venkattasubban
for M/s. Sarvabhauman Associates

JUDGMENT

Aggrieved over the judgment and decree dated 12.12.2007, passed in L.A.O.P. No.18 of 1999, on the file of the Principal Subordinate Court, Krishnagiri, the appeal has been preferred by the petitioner/Land Acquisition Officer, Krishnagiri.

2. Shorn of unnecessary details, it is found that the lands of the claimants had been acquired by the petitioner for the purpose of providing house sites to Adi Dravidar and accordingly, Section 4 (1) notification has come to be published in the Gazette with reference to the same on 10.04.1999 and after compliance with the other requirements of the Act, it is found that the award has been passed by the Land Acquisition Officer on 29.09.1989, fixing the market value of the acquired lands at Rs.30,000/- per acre. Inasmuch as the claimants sought for more compensation than the award fixed by the Land Acquisition Officer, reference was made to the Referral Court

under Section 18 of the Land Acquisition Act.

3. The claimants put forth the case that the acquired lands are situated within the limits of Nappirampatti village and lying near the residential area and also near Pambar dam and they would fetch a sum of Rs.2,50,000/- per acre and accordingly prayed for enhanced compensation.

4. Per contra, the Land Acquisition Officer has contended that the acquired lands are not having any potential value and they are lying about 10 KM away from the National Highways and therefore, contended that the award fixed by the Land Acquisition Officer is correct and not liable to be disturbed.

5. In support of the case of the claimants, PWs 1 to 4 were examined, Exs.P1 and P2 were marked. On the side of the petitioner/Land Acquisition Officer, Krishnagiri, DW1 was examined and Exs.R1 to R4 were marked.

6. On a consideration of the oral and documentary evidence adduced by the respective parties and the submissions made, the Court below fixed the compensation at Rs.1,00,000/- per acre and accordingly, arrived at the total compensation at Rs.10,18,000/- with interest as determined by it. Aggrieved over the same, the present first appeal has been preferred by the petitioner/Land Acquisition Officer Krishnagiri.

7. The following points arise for determination in this first appeal:

(i) Whether the compensation fixed by the referral Court is just and correct?

(ii) To what relief the petitioner/appellant is entitled to?

(iii) To what relief the claimants are entitled to?

Point No.1:-

8. It is not in dispute that the lands belonging to the claimants had been acquired for the purpose of providing house sites to Adi Dravidars. The Land Acquisition Officer had fixed the compensation at Rs.30,000/- per acre. In this connection, from the materials placed on record, it is found that the sale deed dated 10.12.1997, marked as Ex.R4, had been taken into consideration by the Land Acquisition Officer as the data sale deed for fixing the abovesaid compensation. However, according to the claimants, the property comprised in the abovesaid data sale deed Ex.R4 is situated far away from the lands belonging to the claimants which had been acquired and also not having any similarities with that of the lands of the claimants and therefore, according to them, the compensation fixed by the Land

Acquisition Officer based on Ex.R4 sale deed is unacceptable and is liable to be set aside.

9. As rightly held by the referral Court, it is found that the property comprised in Ex.R4 sale deed is situated far away from the subject matter and also not having any similarities as that of the subject lands and in such view of the matter, the award fixed by the Land Acquisition Officer based on Ex.R4 sale deed is found to be totally unacceptable and thereby, it is seen that the Land Acquisition Officer had fixed the value of the acquired lands at a very very low level.

10. According to the claimants, the subject matter i.e., the lands of the claimants which had been acquired are situated in Nappirampatti village and they have more potential value and they are lying adjacent to the road and within the limits of the village and also fit for construction of the houses for the poor people and accordingly, sought for the enhanced compensation. As abovenoted, the lands of the claimants have been acquired only for the purpose of providing house sites to Adi Dravidar. In this connection, the claimants placed reliance upon two sale deeds marked as Exs.P1 and P2. During the course of arguments, the claimants' counsel put forth the contention that the sale deed dated 08.02.1998, marked as Ex.P2, is pertaining to the property situated adjacent to the subject matter and the consideration for the said property had been fixed at a sum of Rs.52,500/- for an extent of 0.50 cents and accordingly, put forth the case that the Land Acquisition Officer should have taken into consideration the market value of the subject matter, based on the sale price as fixed in Ex.P2 sale deed and erred in relying upon the data sale deed marked as Ex.R4 which has no nexus whatsoever with the subject matter and lying far away from the subject matter and hence, according to him, the referral Court is justified in placing reliance upon Ex.P2 Sale deed for fixing the enhanced compensation.

11. On a perusal of Ex.P2 sale deed, it is found that the same is in respect of the property situated adjacent to the subject matter and the purchaser had acquired the said land measuring an extent of 0.50 cents at the rate of Rs.52,500/-. With reference to Ex.P2 sale deed., according to the Special Government Pleader (CS), the value of the abovesaid sale transaction had been boosted by the claimants for the purpose of seeking the enhanced compensation and therefore, the same should not be taken into consideration. However, the abovesaid contention does not merit acceptance. When it is found that Ex.P2 sale deed had come into existence prior to the issuance of Section 4(1) notification and when there is no material placed on record that the purchaser of the property under Ex.P2 has any relationship with the claimants and when there is no material placed on the part of the petitioner that the abovesaid sale

deed had been created by the claimants only for the purpose of seeking the enhanced compensation as now sought to be projected and when furthermore, the subject matter and the property comprised in Ex.P2 sale transaction are found to be lying adjacent to each other and having the same features and similarities, in such view of the matter, the referral Court is found to be justified in taking into consideration the value fixed in the abovesaid sale transaction for the determination of the market value of the acquired lands. Therefore, the contention put forth by the Special Government Pleader (CS) that the endeavour of the referral Court relying upon Ex.P2 sale deed for fixing the compensation is erroneous, as such, cannot be accepted. The further contention put forth by him is that the property comprised in Ex.P2 is of a smaller extent and the same should not be taken into consideration. However, when as above noted Ex.P2 pertains to the property situated adjacent to the acquired lands and having the same features and similarities and when the referral Court has also deducted 1/3 of the said amount for developmental charges and when the data sale deed relied upon by the Land Acquisition Officer is situated far away and not having any nexus with the acquired lands, in such view of the matter, merely because of the extent covered in the sale transaction is smaller, that by itself would not be a ground for discarding the abovesaid sale transaction and on that score alone, we cannot disturb the enhanced compensation fixed by the referral Court based on the same. In the light of the abovesaid discussions, it is found that the referral Court has properly taken into consideration all the materials placed on record and rightly determined the enhanced compensation by fixing the value of the acquired lands at Rs.1,00,000/- per acre and after giving due deduction had arrived at the enhanced compensation and therefore, I hold that the compensation fixed by the referral Court is just and correct and not requiring any interference and accordingly, the point No.1 is answered.

Point Nos.2 & 3:-

12. In the light of the abovesaid discussions, the judgment and decree dated 12.12.2007, passed in L.A.O.P. No.18 of 1999, on the file of the Principal Subordinate Court, Krishnagiri are confirmed and resultantly, the first appeal is dismissed. Considering the facts and circumstances of the case, there is no order as to costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:
The Principal Subordinate Judge, Krishnagiri.

Copy to:

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/s.Sarvabhuaman Associates, SR.88966
+1cc to the Governemnt Pleader sR.89289

A.S.No.183 of 2012

SSD(CO)
CB(09/03/2020)