IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.10.2019

PRONOUNCED ON : 30.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

A.S.Nos.394 to 421 of 2012
and
A.S.Nos.483 to 521 of 2012

The Special Tahsildar (LA)
Outer Ring Road project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8.
Now Office at Koyambedu Wholesale
Market Complex, Chennai - 600 092. .. Appellant in all AS Nos

Vs.

Thameem Ansari	..1st Respondent in As 394/2012
C.VIJAYALAKSHMI	..1st Respondent in As 395/2012
SAROJA	..1st Respondent in As 396/2012
MUSTHIRI BEGAM	..1st Respondent in As 397/2012
M.S.MOHAMED ALI	..1st Respondent in As 398/2012
MAHALAKSHMI	..1st Respondent in As 399/2012
KALAISELVI KARUNAKARAN	..1st Respondent in As 400/2012
K.SAKTHI	..1st Respondent in As 401/2012
P.V.GEETHA	..1st Respondent in As 402/2012
P.PARAMESWARI	..1st Respondent in As 403/2012
J.M.Ikbal, MANAGING PARTER, A.M.AHAMED & Co, CHENNAI	..1st Respondent in As 404/2012
P.Nalini	..1st Respondent in As 405/2012
M.Kanchana	..1st Respondent in As 406/2012
H.M.IKBAL AHAMED	..1st Respondent in As 407/2012
HABEEZ VUNISA	..1st Respondent in As 408/2012
M.S.DHINATHAYALAN	..1st Respondent in As 409/2012
P.Savithri	..1st Respondent in As 410/2012
CHANDRAMMAL	..1st Respondent in As 411/2012
T.V.SUNDARAM (DECEASED) Usha Rani	..1st Respondent in As 412/2012
N.S.SATHISH KUMARAN	..1st Respondent in As 413/2012
PREMA GANESAN	..1st Respondent in As 414/2012
VIJALAKSHMI RAMAN	..1st Respondent in As 415/2012
ECHAIYAPPAN	..1st Respondent in As 416/2012
J.C.KOSALRAM	..1st Respondent in As 417/2012
M.S.USMANALI	..1st Respondent in As 418/2012
G.RAMACHANDRAN	..1st Respondent in As 419/2012
D.BATHAMCHAND	..1st Respondent in As 420/2012
P.BHASHYAM	..1st Respondent in As 421/2012
K.J.MOHAMADHU SANANULLA	..1st Respondent in As 483/2012

SAIBUNISA	..1st Respondent in As 484/2012
P.K.RAGHAVAN	..1st Respondent in As 485/2012
P.DEIVASIGAMANI	..1st Respondent in As 486/2012
S.SELVARAJ	..1st Respondent in As 487/2012
K.ARASU	..1st Respondent in As 488/2012
A.SAIFULLAH	..1st Respondent in As 489/2012
P.SUBBARAO	..1st Respondent in As 490/2012
C.KANNAN	..1st Respondent in As 491/2012
S.SAYITHA BEGUM	..1st Respondent in As 492/2012
G.ANNADURAI	..1st Respondent in As 493/2012
M.MUTHUPANDI	..1st Respondent in As 494/2012
J.JENOVA	..1st Respondent in As 495/2012
A.SELVARAJ	..1st Respondent in As 496/2012
S.RAMADOSS	..1st Respondent in As 497/2012
RAHMATULLAH BEGUM	..1st Respondent in As 498/2012
G.PANNEERSELVAM	..1st Respondent in As 499/2012
N.RAMESH	..1st Respondent in As 500/2012
CHINNAMMAL	..1st Respondent in As 501/2012
SAMUNDESWARI	..1st Respondent in As 502/2012
M.SATHIYAMOORTHY	..1st Respondent in As 503/2012
C.MURUGAN	..1st Respondent in As 504/2012
P.KARUPPUSAMY	..1st Respondent in As 505/2012
T.KRISHNAVENI	..1st Respondent in As 506/2012
1.RAMBABU 2.C.R.HEMAVATHI 3.C.R.KAMALESH MINORS REP BY RAMBABU FATHER and GUARDIAN OF MINORS	..1 to 3 Respondents in As 507/2012
KANTHAMMAL	..1st Respondent in As 508/2012
G.MEGANATHAN	..1st Respondent in As 509/2012
P.GOVINDASAMY	..1st Respondent in As 510/2012
V.PERUMAL	..1st Respondent in As 511/2012
K.C.MOHAMMED KASIM	..1st Respondent in As 512/2012
BASEER AHMED	..1st Respondent in As 513/2012
R.SHANMUGAM	..1st Respondent in As 514/2012
R.PARASURAMAN	..1st Respondent in As 515/2012
R.M.MAHADEVI	..1st Respondent in As 516/2012
R.SANKAR	..1st Respondent in As 517/2012
B.SANKARI	..1st Respondent in As 518/2012
RASEEYA BEGUM	..1st Respondent in As 519/2012
R.RUKMANI	..1st Respondent in As 520/2012
M.SUSEELA	..1st Respondent in As 521/2012

2.THE MEMBER SECRETARY,
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
EGMORE, CHENNAI-8 ..R2 in all AS Nos.(Exceept 507)
R4 in AS 507/2012

Prayer in AS Nos.394 to 421/2012 and AS Nos.483 to 521/2012:- First Appeals have been filed under Section 54 of the Land Acquisition Act against the judgment and decree dated 27.06.2011 2.26.04.2011 passed in (i) L.A.O.P.Nos.270 of 2008,and 255 to 267/2008, 254/2008, 268/2008, 269/2008, 271 to

278/2008, 422/2008, 431/2008 and 447/2008 (ii) LAOP Nos.362, 365, 371 to 373, 377, 378, 380 to 383/2008 386 to 390/2008 392, 394 to 399/2008, 401/2008, 402/2008, 404 to 412/2008 and 414 to 417/2008 and 420/2008 respectively on the file of the Additional District Court, (FTC-II), Poonamallee.

For Appellant in all first appeals : Mr.J.Balagopal Spl.Govt.Pleader (A.S.)

For Respondent No.1 in all first appeals : Mr.I.Abrar Mohammed Abdullah

For Respondent No.2 : Mr.Karthik Rajan for CMDA

COMMON JUDGMENT

Considering the scope of the issues involved in the abovesaid batch appeals lying in a narrow compass, it is unnecessary to dwell into the facts of the case in detail.

2.It is not in dispute that the subject matter of the batch appeals had been acquired for the development of Outer Ring Road. In this connection, after publishing Section 4(1) notification of the Land Acquisition Act and after complying with the other requirements under the Act, it is found that the Land Acquisition Officer had taken note of the various sale transactions, which had taken place during the period of three years immediately preceding the date of notification under Section 4(1) and of them, most of the sale transactions pertaining to house sites and sold as such, however the Land Acquisition Officer is found to have relied on only one sale transaction in S.F.No.565/19A and 19B, which had been sold at the rate of Rs.550/- per cent and accordingly, fixed the compensation of the subject matter i.e. the lands acquired at Rs.550/- per cent.

3.Aggrieved over the compensation fixed by the Land Acquisition Officer, on the objection put forth by the various claimants, it is found that the matter was referred under Section 18 of the Act to the referral Court for deciding the adequate and just compensation, to which, the claimants are entitled to for the acquisition of the subject matter.

4.Before the referral Court, it is found that in two batch cases determined by the referral Court by way of two separate judgments, in the batch cases, the claimants Padam Chand and K.J.Mohammed Sananullah have tendered evidence and three documents were pressed into service on the side of the claimants, they being Ex.C1, the sketch of Outer Ring Road, Ex.C2, a sale deed dated 27.08.2004 measuring an extent of 700 sq.ft and Ex.C3, a sale deed dated 01.11.2004 measuring an extent of 1320 sq.ft and on the side of the Land Acquisition Officer, the Special Thasildar, Tmt.Kaarkuzhali has been examined as RW1 and the award has been marked as Ex.R1.

5.Based on the material available on record, the referral Court had fixed the market rate at Rs.18,000/- per cent. Aggrieved over the enhanced compensation fixed by the referral Court, the abovesaid batch appeals had been preferred by the Land Acquisition Officer.

6.It is mainly contended by the Government Pleader (A.S) appearing for the Land Acquisition Officer that the referral Court had fixed the enhanced compensation based on the sale deed comprising of a smaller extent and failed to give deduction towards the development activities required to be undertaken with reference to the acquired lands for the formation of Outer Ring Road and accordingly, put forth the argument that the enhanced compensation fixed by the referral Court is liable to be set aside.

7.Per contra, the counsel appearing for the claimants put forth the arguments that though the referral Court has taken into consideration the value of the sale deed projected by the claimants and the same pertaining to a smaller extent, however, considering the position that the lands acquired are forming part of peripheries of the city of Chennai and already portions of the same had been laid as house sites known as Vasanth Nagar layout, accordingly, contending that the referral Court was justified in relying upon the sale deed comprising of a smaller extent for fixing the enhanced compensation and therefore, the impugned judgment and decree do not warrant any interference and the appeals are to be dismissed.

8. With reference to the same notification and pertaining to the same village, a batch of appeals had been disposed of by the Division Bench consisting of The Hon'ble Mr.Justice V.Ramasubramanian and The Hon'ble Mr.Justice T.Mathivanan dated 06.08.2015 in A.S.Nos.524 to 535 of 2011 (The Special Tahsildar, Andiyappanur Reservior Scheme, Tirupattur Vs. Rukkammal) and considering the position that though the referral Court had taken into consideration the sale deed measuring a smaller extent for fixing the compensation, however, noting that the lands acquired were actually urban lands and the master plan prepared for Chennai Metropolitan area suggested the formation of three types of Ring Road for the purpose of transportation and the lands were actually well developed and already become house sites and furthermore, considering the various extents of acquired lands also being only smaller extents, accordingly, refused to accede to the contentions of the Government Pleader (A.S) and accordingly, held that the referral Court was right in taking note of the documents relied upon by the claimants and refused to allow any deduction and resultantly, dismissed the abovesaid appeals. The relevant portions of the judgment are extracted below for the appreciation of the issues involved in the matter by the Division Bench in the abovesaid batch cases :

"8. The grievance of the appellant before us is that the total extent of land covered by Ex.C-2 sale deed was only 700 sq. ft. and that the total extent of land covered by Ex.C-3 sale deed was only 1320 sq. ft. Therefore, it is the contention of the learned Additional Government Pleader that the sale deeds relating to small extents of land cannot be taken into account.

9. In normal circumstances, what is contended by the learned Additional Government Pleader could have been accepted by us. But in the appeals on hand, the very lands acquired from the respondents were all small extents. These lands are not claimed to be agricultural lands. They were actually urban lands. The very Master Plan prepared for Chennai Metropolitan area suggested the formation of three types of Ring Roads so that an orbital movement is accorded for transportation. The lands were actually well developed and had already become house sites.

10. In order to highlight that the lands acquired from the respondents were also small extents, we give below, the extent of land acquired from each of the respondents in a tabular form.

S.No	A.S.No.	LAOP No.	Extent
1.	524/2011	317/2008	4 cents
2.	525/2011	318/2008	12.35 cents
3.	526/2011	320/2008	5 cents
4.	527/2011	321/2008	5 cents
5.	528/2011	331/2008	53 cents
6.	529/2011	334/2008	5 cents
7.	530/2011	346/2008	5 cents
8.	531/2011	347/2008	20 cents
9.	532/2011	349/2008	5 cents
10.	533/2011	350/2008	2.47 cents
11.	534/2011	443/2008	215 cents
12.	535/2011	445/2008	5 cents

11. In view of the above, the contention of the learned Additional Government Pleader that Exx.C-2 and C-3, ought not to have taken note of, cannot be accepted.

12. As stated earlier, the locational advantage of the land, had been spoken to even by P.W.1 in paragraph 10 of its judgment the Tribunal had recorded that all the lands in the area had already been developed into house sites and that even constructions have come up after obtaining necessary approval from the Chennai Metropolitan Development Authority. Therefore, the Tribunal was right in taking note of Exx.C-2 and C3 and refusing to allow any reduction.

13. In view of the above, we find no justification to interfere with the awards of the Tribunal. Therefore, the appeals are dismissed. There will be no order as to costs. The Government Pleader will be entitled to separate fees."

9.Subsequently, another batch cases relating to the same notification and the same village came to be decided by the same Division Bench consisting of the above mentioned The Hon'ble Judges in A.S.Nos.472 to 480 of 2012 on 13.10.2015 (The Special Tahsildar, Outer Ring Road Project, CMDA, Egmore,Chennai - 8 now office at Koyambedu Wholesale Market Complex, Chennai - 92 Vs. N.Ramaiya and others) and confirmed the enhanced compensation fixed by the referral Court and dismissed the appeals preferred by the Land Acquisition Officer by giving the following reasons, which are extracted below:

"11. At the outset, it should be pointed out that the village, in which, the acquired lands are located, is situate in Ambattur Taluk, which is within the urban agglomeration of the city of Chennai. The area has already developed fast into an industrial and semi urban area. Even as per the award passed by the Land Acquisition Officer, 408 sale transactions had taken place during a period of three years immediately preceding the date of

Notification under Section 4(1). Out of them, more than about 50% related to sale of house sites. This is an indication that the lands ceased to be agricultural lands or rural lands, but had actually become part of urban area. As a matter of fact, portions of land acquired were already part of a layout of house sites known as Vasanth Nagar Layout. Therefore, we are of the considered view that the Additional District Court did not commit any mistake either of fact or of law in enhancing the compensation to Rs.18,000/- per cent.

12. The question as to whether the sale transactions relating to lands of smaller extent can be taken into account or not became a vexed question that comes up again and again before Courts. It is true that in Land Acquisition Officer Vs. Sreelatha Bhoopal [(1997) 9 SCC 628], the Supreme Court held that while determining the market value of large extent of land, it is improper to place reliance upon sale deeds relating to small pieces of land. Even in The Executive Officer v. Chandra Bisori [2000 (2) CTC 555], it was held that the adoption of the sale value of small pieces of land was impermissible.

13. However, in Trishalal Jain v. State of Uttaranchal [(2011) 6 SCC 47], the Supreme Court held that the value indicated in the sale deeds relating to small pieces of land can also be taken into consideration for determining the value of a large tract of land. However, the said opinion was coupled with a rider that while taking such transactions into account, the Court has to make a reasonable deduction keeping in view the other attendant circumstances. The view taken in Trishalal Jain was also followed in Mehrawal Khewaji Trust v. State of Punjab [2012 4 LW 109].

14. But, in the case on hand, the land was located in an area that had already

developed. The village was part of a taluk that was in the peripheries of the city of Chennai. More than 50% of the data sales related to house sites. Therefore, the appellant cannot avoid the adoption of the same value.

15. In view of the above, we find no merit to interfere with the award of the Additional District Court.

16. Accordingly, the above appeals are dismissed. Consequently, all connected pending MPs are also dismissed. No costs. The Additional Government Pleader is entitled to separate fees in these cases."

10.The abovesaid decisions rendered by the Division Bench in the abovesaid batch appeals are mainly relied upon by the counsel appearing for the claimants and therefore, according to him, when the matter had already been disposed of by the Division Bench with reference to the same notification and Village qua the acquisition proceedings, according to him, this Court should also follow the same view and dismiss the appeals preferred by the Land Acquisition Officer.

11.Per contra, the Government Pleader (A.S) put forth that another Division Bench had allowed deduction to the extent of 50% and reduced the market rate at Rs.9,000/- per cent and put forth that the subject matter involved before the said Division Bench also pertains to the same notification and the same Village and in this connection, the decision rendered by the Division Bench consisting of The Hon'ble Mr.Justice K.K.Sasidharan and The Hon'ble Mr.Justice P.Velmurugan dated 19.03.2018 passed in A.S.Nos.1 & 2 of 2014 (The Special Tahsildar, Outer Ring Road Project, Chennai Metropolitan Development Authority, Egmore, Chennai 600 008. Now office at Koyambedu Wholesale Market Complex, Chennai 600 092 Vs. Dr.Fathima Jalal and others) is relied upon. The Division Bench in the abovesaid matter had disposed of the appeals in the following manner:

"23.The Reference Court has taken the sale deeds dated 27.08.2004 and 01.11.2004 bearing Document Nos.3005/2004 and 4271/2004 respectively as guidelines for fixing the market value. Though the documents relate to smaller extent, a perusal of the Sketch produced on the side of the appellant before this Court shows that the sale deeds, which have been taken as data sale are not very nearer to the acquired lands and also not similar in nature.

24.Further, this Court finds that the sale deeds taken to show the market value viz., Ex.C.2, the sale deed executed under Document Nos.3005/2004 in Survey No.601/3A, relates to extent of 700 Sq.ft of land which was sold at the rate of Rs.18,312/- per cent. Likewise, Ex.C.3, the sale deed under Document 4271/2004, covering an extent of 1,320sq.ft has been sold at Rs.55,440/-. Both the sale deeds were executed in the year 2004 and are smaller extents of land. The sale deed, Ex.C.2 had taken place before 4(1) notification dated 5.11.2004. Therefore, the Reference Court fixed the value of the proposed acquire lands at Rs.18,000/- per cent.

25.It is seen that both the sale deeds (Ex.C.1 and C.2), which have been taken as samples, are smaller extents whereas, the acquired lands is of a larger extent. Further, the Reference Court while passing the award has not deducted any amount towards development charges.

26.The documents dated 27.08.2004 and 1.11.2004, taken as supporting documents of sale by the Court below were executed prior to the issuance of 4 (1) notification and the lands covered under the said documents are 700 sq.ft. and 1320 sq.ft. On the other hand, the total acquired land is 2.92.5 Hectares. The Reference Court has not given any deduction taking into account the larger extent of land acquired vis-a-vis to the extent shown in the data sale.

27.Therefore, we are of the view that 50% deduction should be given towards development charges. We therefore fix the market rate at Rs.9000/- per cent."

12.The counsel appearing for the claimants contended that the decisions of the Division Bench relied upon by the claimants dated 06.08.2015 and 13.10.2015 referred to supra were not placed for consideration before the Division Bench consisting of the Hon'ble Mr.Justice K.K.Sasidharan and The

Hon'ble Mr.Justice P.Velmurugan and furthermore, he would also put forth the argument that impugning the judgment and decree passed by the Division Bench dated 19.03.2018 in A.S.Nos.1 & 2 of 2014, the claimants concerned had taken steps to challenge the same in the apex Court.

13.Be that as it may, the Government Pleader (A.S) appearing for the Land Acquisition Officer contended that the decision rendered by The Hon'ble Mr.Justice K.K.Sasidharan and The Hon'ble Mr.Justice P.Velmurugan, had been followed by another Division Bench consisting of the Hon'ble Mr.Justice M.M.Sundresh and The Hon'ble Mr.Justice C.Saravanan, while disposing of A.S.No.951 of 2015 dated 04.03.2019 (P.Sampath Raj Jain Vs.The Special Tahsildar (L.A.) Unit - 5, Outer Ring Road Scheme, CMDA, Koyambedu Complex, Koyambedu, Chennai - 600 092) and according to him, in the abovesaid decision, the abvoesaid Hon'ble Division Bench had considered both the decisions rendered by The Hon'ble Mr.Justice K.K.Sasidharan and The Hon'ble Mr.Justice P.Velmurugan dated 19.03.2018 as well as the decision rendered by the Hon'ble Mr.Justice V.Ramasubramanian and The Hon'ble Mr.Justice T.Mathivanan dated 13.10.2015 and had, accordingly, disposed of the abovesaid appeals in the following manner:

> "7. In the decision rendered in The Special Tahsildar v. N.Ramaiya and others (supra) passed in A.S.No.472 to 480 of 2012, dated 13.10.2015, admittedly, the Division Bench did not take into consideration of the deduction towards the development charges. The following is the operative portion of the judgment:-
>
> "11.At the outset, it should be pointed out that the village, in which, the acquired lands are located, is situate in Ambattur Taluk, which is within the urban agglomeration of the city of Chennai. The area has already developed fast into an industrial and semi urban area. Even as per the award passed by the Land Acquisition Officer, 408 sale transactions had taken place during a period of three years immediately preceding the date of Notification under Section 4(1). Out of them, more than about 50% related to sale of house sites. This is an indication that the lands ceased to be agricultural lands or rural lands, but had actually become part of urban area. As a matter of fact, portions of land acquired were already part of a layout of house sites known as

Vasanth Nagar Layout. Therefore, we are of the considered view that the Additional District Court did not commit any mistake either of fact or of law in enhancing the compensation to Rs.18,000/- per cent.

12. The question as to whether the sale transactions relating to lands of smaller extent can be taken into account or not became a vexed question that comes up again and again before Courts. It is true that in Land Acquisition Officer v. Sreelatha Bhoopal [(1997) 9 SCC 628], the Supreme Court held that while determining the market value of large extent, it is improper to place reliance upon sale deeds relating to small pieces of land. Even in The Executive Officer v. Chandra Bisori [2000 (2) CTC 555], it was held that the adoption of sale value of small pieces of land was impermissible.

13.However, in Trishalal Jain v. State of Uttaranchal [(2011) 6 SCC 47], the Supreme Court held that the value indicated in the sale deeds relating to small pieces of land can also be taken into consideration for determining the value of a large tract of land. However, the said opinion was coupled with a rider that while taking such transactions into account, the Court has to make a reasonable deduction keeping in view the other attendant circumstances. The view taken in Trishalal Jain was follwed in Mehrawal Khewaji Trust v. State of Punjab [2012 4 LW 109].

14. But, in the case on hand, the land was located in an area that had already developed. The village was part of a taluk that was in the peripheries of the city of Chennai. More than 50% of the data sales related to house sites. Therefore, the appellant cannot avoid

the adoption of the same value.

15. In view of the above, we find no merit to interfere with the award of the Additional District Court."

7. Further, in the subsequent judgment, passed in The Special Tahsildar v. Dr. Fathima Jalal and another (supra) (passed in A.S.Nos. 1 & 2 of 2014 dated 19.03.2018), which is a recent one, the Division Bench reduced the land value to Rs.9,000/- per cent and it is apposite to refer to the operative portion of the said judgment, which reads thus:-

"23.The Reference Court has taken the sale deeds dated 27.08.2004 and 01.11.2004 bearing Document Nos.3005/2004 and 4721/2004 respectively as guidelines for fixing the market value. Though the documents relate to smaller extent, a perusal of the Sketch produced on the side of the appellant before this Court shows that the sale deeds, which have been taken as data sale are not very nearer to the acquired lands and also not similar in nature.

24.Further, this Court finds that the sale deeds taken to show the market value viz., Ex.C.2, the sale deed executed under Document Nos.3005/2004 in Survey No.601/3A, relates to extent of 700 Sq.ft of land which was sold at the rate of Rs.18,312/- per cent. Likewise, Ex.C.3, the sale deed under Document 4721/2004, covering an extent of 1,320 Sq.ft has been sold at Rs.55,400/-. Both the sale deeds were executed in the year 2004 and are smaller extents of land. The sale deed, Ex.C.2 had taken place before 4(1) notification dated 5.11.2004. Therefore, the Reference Court fixed the value of the proposed acquire lands at Rs.18,000/- per cent.

25. It is seen that both the sale deeds (Ex.C.1 and C.2), which have been taken as samples, are smaller extents whereas, the acquired lands is of a larger

extent. Further, the Reference Court while passing the award has not deducted any amount towards development charges.

26.The documents dated 27.08.2004 and 1.11.2004, taken as supporting documents of sale by the Court below were executed prior to the issuance of 4(1) notification and the lands covered under the said documents are 700 sq.ft and 1320 sq.ft. On the other hand, the total acquired land is 2.92.5 Hectares. The Reference Court has not given any deduction taking into account the larger extent of land acquired vis-a- vis to the extent shown in the data sale.

27.Therefore, we are of the vie that 50% deduction should be given towards development charges. We therefore fix the market rate at Rs.9,000/- per cent."

8. In the case on hand, the Reference Court fixed the land value at Rs.10,000/- per cent. This fixation has not been appealed against by the respondents. Now, the claimant has filed appeal seeking enhancement. As rightly contended by the learned Special Government Pleader, the earlier Division Bench did not consider the deduction towards the development charges. Though it is contended by the learned counsel appearing for the appellant that the land in question has already been plotted out, it appears that they have been sold as unapproved plots. Therefore, development charges will have to be deducted as a consequence. Similarly, the sale deed for the very same land effected by the appellant depicts very low amount. If that is considered, the appellant will not be entitled to even Rs.10,000/- as land value per cent. However, this Court is not willing to go into the said issue at this stage, as the respondents did not appeal against the land value fixed. In such view of the matter, we are of the view that the ratio laid down by the subsequent Division Bench will have to be applied and if that is done, the Reference Court order does not require any interference.

9. Accordingly, the appeal stands

dismissed. No costs. . . . "

14.In the light of the abovesaid decisions, according to the Government Pleader (A.S), this Court should follow the decisions rendered by the subsequent Division Benches relied upon by him and reduce the compensation by deducting 50% of the enhanced compensation towards development charges and accordingly, fix the market value at Rs.9,000/- per cent.

15.The counsel for the claimants also placed for consideration the decision of the apex Court reported in (2011) 6 Supreme Court Cases 47 (Trishala Jain and another Vs. State of Uttaranchal and another), which had already been considered by the Division Bench, while disposing of A.S.Nos.472 to 480 of 2012 dated 13.10.2015. He would further rely upon the decision of the apex Court reported in (2007) 9 Supreme Court Cases 447 (Nelson Fernandes and others Vs. Special Land Acquisition Officer, South Goa and others) and contend that it is not necessary that in all the cases, deduction should be made, while considering the sale deed comprised of a lesser extent, while fixing the compensation and accordingly, put forth that in the abovesaid decision of the Apex Court, considering the position that the lands acquired are for laying a railway line, determined that the question of development thereof could not arise and accordingly, explained the position of law as given below:

> "30.We are not, however, oblivious of the fact that normally 1/3rd deduction of further amount of compensation has been directed in some cases. However, the purpose for which the land is acquired must also be taken into consideration. In the instant case, the land was acquired for the construction of new BG line for the Konkan Railways. This Court in Hasanali Khanbhai & Sons V. State of Gujarat and Land Acquisition Officer V.Nookala Rajamallu had noticed that where lands are acquired for specific purposes, deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise. Therefore, the order passed by the High Court is liable to be set aside and in view of the availability of basic civic amenities such as school, bank, police station, water supply, electricity, highway, transport, post, petrol pump, industry, telecommunication and other businesses, the claim of compensation should reasonably be fixed

@ Rs.250 per sq m with the deduction of 20%. The appellant shall be entitled to all other statutory benefits such as solatium, interest, etc. etc. The appellants also will be entitled to compensation for the trees standing on the said land in a sum of Rs.59,192 as fixed. IA No.1 of 2006 for substitution is ordered as prayed for."

16.Per contra, the Government Pleader(A.S) also placed the decision of the apex Court reported in (2019) 8 Supreme Court Cases 56 (Namdeo Shankar Govardhane (Dead) Through Legal Representatives and others Vs. State of Maharashtra and others) for the contention that when the sale price of a smaller extent of land is relied upon for fixing the compensation due deduction should be given towards the development charges. The abvoesaid decision had been taken into consideration. It is found that the purpose of acquisition of the land in question covered in the abvoesaid decision was for the construction of a Dam.

17.In the light of the abovesaid conflict of decisions by the two decisions of co-equal benches of this Court in respect of the same notification and the same village, as to which of the decisions should be followed by this Court, on that question, the counsel for the claimants placed for consideration, the decision rendered by this Court reported in 2017 (3) CTC 170 (M.Krishnamoorthy Vs. K.Pondeepankar and 4 others), wherein the position of law has been outlined as follows:

"24. Now it has to be seen as to what is the duty of the High Court, when it faced such a situation of direct conflict of opinion between the decisions of Co-equal Benches of the Hon'ble Supreme Court. This question was answered by the Full Bench of Patna High Court in Amar Singh Yadav and another vs. Shanti Devi and Others reported in 1987 Patna 191. The Full Bench had observed as follows:

"(24) to conclude on this aspect it has held that where there is a direct conflict between two decisions of the Hon'ble Supreme Court rendered by the Co-equal Benches, the High Court must follow up with the judgement which appears to it to suit the law more elaborately and accurately."

The Full Bench judgement of Patna High

Court was followed by this Court in Neyveli Lignite Corporation Limited vs. Special Tahsildar (Land Acquisition) Lignite Project 1998 2 LW 79. The same view was reiterated by the Hon'ble Mr.Justice K.Sampath in Special Thasildhar (Land Acquisition), Vembakottai Reservoir Scheme, Srivilliputhur vs. Seeni Naicker & two others, 1998 (2) CTC 99. Hon'ble Mr.Justice S.B.Sinha as a Judge of Patna High Court had also taken a same view in The Oriental Fire and General Insurance Company vs. Panapati Devi 1989 (2) ACC 617."

18.With reference to the evidence adduced in these matters, the claimants have tendered evidence that the lands acquired are situated within the urban agglomeration of the city of Chennai and the area had already been developed fast into an industrial and semi urban area and also explained the location of the development of the acquired lands, which has been considered by the referral Court and accordingly, relying upon the same, the counsel for the claimants put forth the argument that when the various sale transactions, which had been taken into consideration by the Land Acquisition Officer for fixing the award, several transactions with reference to the same relate to the sale of house sites and accordingly, contended that the abovesaid factors would go to show that the lands acquired ceased to be agricultural or rural lands, but had actually become part of urban area and also put forth the argument that the portions of the land acquired had already been formed as house sites known as Vasanth Nagar layout and therefore, considering the various developments, which the lands acquired are enjoying, particularly, they being situated near the peripherals of Chennai City, in such view of the matter, argued that there is no need for making any deduction towards the development charges as put forth by the Land Acquisition Officer and accordingly, prayed for the confirmation of the award fixed by the referral Court.

19.The referral Court has also taken into consideration the evidence tendered on behalf of the Land Acquisition Officer examined as RW1 and found that during the course of cross examination, RW1 has admitted that most of the acquired lands are found to be equally even and levelled lands without any ups and downs and also further admitted that even prior to Section 4(1) notification, the lands had been converted as house sites and also further admitted that the lands fall within the jurisdiction of Chennai Metropolitan Development Authority and the lands had been acquired for the purpose of formation of Outer Ring Road and the claimants had not voluntarily offered their lands for the abovesaid purpose and further, admitted that within a short radius from the lands acquired, various facilities are obtaining and the compensation should be fixed based on the existence of the various facilities and the lands comprised in the village are not consisting of any pits and are equally levelled lands and accordingly, further admitted that there is an appreciation of the value of the lands in the village every year up to 25% and further admitted that most of the sale transactions, which they had taken into consideration, are found to be pertaining to the house sites and also admitted that in the vicinity of the lands acquired, various Schools, Primary Health Centre, Vel Tech Engineering College are located and Avadi H.V.F Air force is also located adjacent to Morai Village.

20.Therefore, considering the various advantages, which the acquired lands are enjoying, particularly, most of the portions of the land acquired had already been converted into house sites and the same are located near the peripheries of Chennai City, in such view of the matter, it is found that lands acquired had already been developed and in such view of the matter, in my considered view that when the question of awarding reasonable deduction to be given, while taking into consideration the price value of the smaller extent of land for the purpose of fixing the compensation for determining the value of a larger tract of land, however, when the apex Court has held that such reasonable deduction should be made keeping in view of the various attendant circumstances and in the light of the abvoesaid position, when as considered and determined by the Division Bench comprising of The Hon'ble Mr.Justice V.Ramasubramanian and The Hon'ble Mr.Justice T.Mathivanan, the subject matter of the appeals being located in an area already developed near Chennai City and most of them had been developed into house sites, in such view of the matter, I deem it apt and fit to follow and accordingly subscribe to the view taken by the abovesaid Division Bench in the decisions dated 06.08.2015 and 13.10.2015 above referred to and accordingly, hold that the award fixed by the referral Court do not require any interference and resultantly, dismiss the appeals. Considering the facts and circumstances of the case, there is no order as to costs. Consequently, connected miscellaneous petitions, if any, are closed. The Government Pleader (A.S) is entitled to separate fees in each case.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

sms

To
The Additional District Judge, (FTC-II), Poonamallee.

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

+1cc to Mr.Karthik Rajan, Advocate SR.No.90436

+66ccs to Mr.I.Abrar Mohammed Abdullah, Advocate SR.No.90251 to 90326

+1cc to Government Pleader SR.No.90910

A.S.Nos.394 to 421 of 2012
and
A.S.Nos.483 to 521 of 2012

GMY(16/12/2019)