

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2019

PRONOUNCED ON : 05.11.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

A.S.No.90 of 2013

Jeyachandran ... Appellant/6th Claimant

Vs.

1. Land Acquisition Officer,
Cum Special Tahsildar,
(Adi Dravidar Welfare Department),
Tindivanam. ...1st Respondent/Referring Officer

2. Rajarathina Achari

3. Munian

Gopalakrishnan (deceased)

4. Jeyachandran

5. Murugesan

6. Banumathi ... Respondents/1,2,4,5 & 7 Claimant

Prayer: Appeal Suit filed under Section 54 of the Land Acquisition Act against the judgment and decree dated 23.02.2011, made in L.A.O.P.No.3 of 1998, on the file of the Additional Sub Court, Tindivanam.

For Appellant : Mr.S.Vadivel Murugan

For R1 : Mr.J.Balagopal,
Special Government Pleader (C.S.)

For R2 to R6 : Given up.

JUDGMENT

Aggrieved over the judgment and decree dated 23.02.2011, passed in L.A.O.P.No.3 of 1998, on the file of the Additional Subordinate Court, Tindivanam, the 6th claimant has preferred the first appeal.

2. For the sake of convenience, the parties are referred to as per their rankings in the trial Court.

3. Shorn of unnecessary details, it is found that the lands belonging to the claimants had been acquired for the purpose of providing house sites to Adi Dravidars and in toto, an extent of

3.08.5 hectares of land of the claimants had been acquired for the said purpose. The notification with reference to the same has been made on 28.08.1991 and after complying with the other legal formalities as adumbrated under the Land Acquisition Act, an award had been passed by the land acquisition officer at Rs.15,385/- per acre and accordingly, determined the award in favour of the claimants. Inasmuch as the award fixed by the land acquisition officer is received under reservation, it is found that the reference has been made to the referral Court for determining the just and proper compensation to which the claimants are entitled to.

4. The claimants would put forth the case before the referral Court that the acquired lands had source of irrigation with perennial well and both wet and dry crops had been raised thrice in a year and they lie as a single unit and accordingly contended that the value of the compensation fixed by the land acquisition officer is very low and does not reflect the correct market value of the acquired land at the time of the notification and further put forth that the land acquisition officer had not considered the various sale transactions effected prior to the notification in the right perspective and deliberately rejected the various sale transactions effected and further put forth the case that the third claimant, Gopalakrishna Reddiar had sold an extent of 0.22 acres in S.No.132/2 to Mani Gounder, by way of a registered sale deed dated 13.08.1991 for Rs.22,000/- and the said value reflected the correct market value in the locality as on the date of the notification and therefore, according to them, the abovesaid sale transaction should be relied upon by the land acquisition officer for determining the compensation, to which, the claimants are entitled to and accordingly, prayed the referral Court to fix the compensation at Rs.2.47 lakhs per hectare and also put forth the case that by way of the acquisition, the lands comprised in S.No.98/4 had been inequitably and injuriously separated and thereby, the 6th claimant had been put to loss and hardship and therefore, prayed for the damages to the extent of Rs.10,000/- for the injurious severance of the lands comprised in S.No.98/4.

5. The land acquisition officer reiterated that the award fixed and granted to the claimants is just and proper and the same had been determined by taking into consideration the relevant sale transactions in the locality and therefore, pleaded for no interference in the award fixed.

6. In support of the claimants case, PWs 1 and 2 were examined, Exs.P1 and P2 were marked and in support of the case of the land acquisition officer, RWs 1 and 2 were examined, Exs.R1 to R3 were marked.

7. On a consideration of the oral and documentary evidence adduced by the respective parties and submissions made, the

referral Court was pleased to dismiss the reference. Impugning the same, the 6th claimant has preferred the present first appeal.

8. The following points arise for determination in the first appeal:

- (i) Whether the compensation fixed by the referral Court is just and proper?
- (ii) To what relief the 6th claimant/appellant is entitled to?

Point No.1:

9. As above pointed out, there is no dispute between the parties that the lands belonging to the claimants had been acquired for the purpose of providing house sites to the Adi Dravidars and the notification had come to be issued with reference to the same on 28.08.1991. The land acquisition officer, after ascertaining the various sale transactions which had been effected three years prior to the notification, accordingly, determined the compensation at Rs.15,385/- per acre. Aggrieved over the same, the reference had been made before the referral Court.

10. The claimants having raised objections to the same, the reference has been made to the referral Court for determining the just and proper compensation.

11. The claimants would mainly rely upon the sale transaction effected on 13.08.1991 executed by one of the claimants namely, Gopalakrishna Reddiar in favour of Mani Gounder in the locality and contended that the value fixed in the abovesaid sale transaction should have been the basis for determining the compensation. The abovesaid sale deed has been marked as Ex.P2. Per contra, according to the land acquisition officer, the abovesaid sale transaction does not reflect the true value of the lands comprised therein and the same had been executed by the claimant for seeking enhanced compensation without any basis and therefore, contended that the award fixed by the land acquisition officer is correct and no interference is needed with reference to the same.

12. Considering the evidence adduced in the matter, when it is found that PW1 examined on behalf of the claimants had admitted that the claimants are aware of the process of the land acquisition even during 1991 and admitted that thandora had been effected in the village and further having admitted that only thereafter the sale transaction had been effected in favour of Mani Gounder under Ex.P2 and when furthermore, though Ex.P2 is found to have been dated 13.08.1991, when it is seen that the same had come to be registered only after the notification date, i.e. only on 10.12.1991, in such view of the matter, the referral Court is found to be justified in holding that the claimants had been adopting the wait and watch attitude and

accordingly, had chosen to register the sale deed Ex.P2 after the date of the notification to suit their case. Therefore, when it is found that Ex.P2 sale deed had been effected between the claimants and their associates, knowing and anticipating the land acquisition proceedings, as admitted by PW1 and the abovesaid sale deed having been registered subsequent to the notification, in all, the referral Court is found to be right in determining that Ex.P2 sale deed would not reflect the true market value of the property comprised therein and thereby, justified in ignoring the said sale transaction for fixing the compensation in favour of the claimants.

13. The referral Court has also proceeded to hold that before the enquiry conducted by the land acquisition officer, the claimants have not chosen to place any document for seeking the enhanced compensation and furthermore, the claimants have also not made any application for enhanced compensation and on that premise, the referral Court has proceeded to hold that there is no need for the reference in question. However, considering the various authorities relied upon by the claimant's counsel in support of his various contentions reported in 2018 (2) MWN (civil) 549 (Shahid Jamal & anr. Vs. State of U.P. & Ors.), 2013 (1) CWC 335 (Syed Abubacker Vs. State of Tamil Nadu), 2004-1-L.W.702 (Angammal Vs. 1. The Special Tahsildar, Land Acquisition, Housing, Ranipet 2. The Executive Engineer, Tamil Nadu Housing Board, Vellore.), 1999 (III) CTC 133 (M.P.Palani and twenty three others Vs. The State of Tamil Nadu), 2018 (5) CTC 838 (1. Lakshmanan 2. Choodappa Vs. 1. District Collector, Krishnagiri 2. Special Tahsildar, Neighbourhood Scheme, Land Acquisition, Hosur), 2012 (3) CTC 396 (Mehrawal Khewaji Trust (Regd.), Faridkot & others Vs. State of Punjab & others), 2009 (1) CTC 609 (The Special Tahsildar, Adi Dravidar Welfare, Salem Vs. Kandasamy and another) and 2015 (1) MWN (Civil) 321 (The Special Tahsildar (LA), Karur-Dindigul-Madurai Broad Gauge Railway Line Scheme, Madurai Vs. J.Suseela), in all, when it is found that for making the reference there is no specific format and in particular, no written application is required to be made by the claimants with reference to the same, in such view of the matter, when the claimants had received the award amount with reservations, in all, it is seen that the determination of the referral Court that there is no need for reference, as such, cannot be countenanced. Be that as it may, on that sole ground alone the referral Court has not determined the issue in the matter. On the other hand, the referral Court has taken into consideration, the materials placed on record by the respective parties in the right perspective and eventually, after finding that the sale deed marked as Ex.P2 does not reflect the true value of the property comprised therein and the same had been created by the claimants and their men after gaining knowledge about the land acquisition proceedings, in such view of the matter, rightly refused to place consideration upon the abovesaid sale deed.

14. Considering the materials placed on record, when it is found that the referring officer had taken into consideration the various sale transactions effected in the locality three years prior to the date of notification and thereafter, after filtering the same, placed reliance upon the data sale deed in S.No.66 and accordingly noted that the abovesaid sale deed had been effected in respect of the 0.67 cents of land for Rs.10,000/- on 28.10.1991, proceeded to fix the compensation at Rs.15,385/- per acre and accordingly, the referral Court had also on the abovesaid evidence adduced in the matter, when it is found that the transaction effected under the abovesaid sale deed had been effected in the same locality prior to the notification, in such view of the matter, the referral Court is justified in upholding the award fixed by the referring officer and accordingly, the referral Court is found to have dismissed the claim made under the reference only based upon the proper appreciation of the materials placed on record and in such view of the matter, the dismissal of the claimants application by the referral Court needs no interference.

15. In the light of the above discussions, I hold that the dismissal of the reference by the referral Court by confirming the award amount fixed by the referring officer is just and correct and the same needs no interference and accordingly, the point no.1 is answered.

Point No.2:

16. For the reasons aforesaid, the judgment and decree dated 23.02.2011, passed in L.A.O.P.No.3 of 1998, on the file of the Additional Subordinate Court, Tindivanam are confirmed and resultantly, the first appeal is dismissed. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

sli

To:

1.The Sub Judge,
The Additional Subordinate Court,
Tindivanam.

Copy to:

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

+1cc to Mr.S.Vadivel Murugan, Advocate SR.No.91373

+1cc to Special Government Pleader(AS) SR.No.91356

A.S.No.90 of 2013

VG I(CO)
GMY(01/10/2020)