

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN

A.S No. 538 of 2006
and
Cross. Obj. No. 18 of 2008

National Highways Authority of India
8th Floor, Annexe Building,
SPIC House, 88 Mount Road,
Guindy, Chennai - 32.
Rep. By its Project Director

... Appellant/
respondent in AS 538/06
... 1st respondent
in Cross Obj. No.
18/08

Vs.

1. Sanjeevi Ammal (Deceased)

... 1st
respondent/Claimant
in AS No.538/06
and Cross
Objector in
in Cross Obj. No.
18/08

2. The Special Thasildar LAI
National Highways,
Besant Nagar,
Chennai - 600 090.

... 2nd respondent/Referring officer
in Cross Obj. No.
18/08 & AS
538/06

3. Ramanujam

... 2nd appellant
in in Cross Obj.
No.18/08
... 3rd respondent
in AS 538/06

2nd Cross objector brought on record as LR of deceased sole cross objector vide order of Court dated 19.11.2013 made in MP.NO.1/12 in Cross. Obj. No. 18 of 2008.

Prayer: Appeal and Cross Objection against the judgment and decree dated 31.08.2004, made in L.A.O.P. No. 131 of 2002 on the file of the Additional District Judge, Fast Track Court-III, Poonamalle.

For Appellant : Mr.B.Hari Krishnan
in AS.538/2006
and 1st respondent
in Cross.Obj.No.
18/2008

For Respondents: R1-Died
R1 in AS.538/2006
and 1st Cross Objector in
Cross Obj.No.18/2008 - Died

Mr.S.Balasubramanian
for 3rd respondent in
AS.No.538/2006
and 2nd Cross Objector in
Cross. Obj.No.18/2008

Mr.Bala Gopal,
Special Government Pleader
for 2nd respondent in
Appeal and Cross Objection

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JUDGMENT

(Delivered by M.M.Sundresh,J.)

By common order, both the appeal and the cross appeal are disposed of.

2. The extent of 0.94 cents in 79/1B in Tambaram Town was

acquired as per the notification dated 29.12.1986 issued under Section 4(1) for formation of bye-pass road. After the notification, an award was passed on 3.1.1990 fixing compensation at Rs.200 per cent. Seeking enhancement, a reference has been made under Section 18 of the Land Acquisition Act by the original owner, by name Sanjeevi Ammal, since died. The reference court enhanced the compensation by placing reliance upon Ex.C2 and fixed it at Rs.7,385/- per cent, deducting 30% towards development charges. Challenging the same, both the appeal and the cross objection have been filed.

3. It appears that during the pendency of the appeal the original land owner Sanjeevi Ammal died. An application was filed seeking to substitute Ramanujam (third respondent in the appeal) in the place of Sanjeevi Ammal based upon a registered Will. This Court, allowed the application, inter alia, holding that the said order is passed subject to the proving of the Will. Therefore, the third respondent has been added as such in the place of original respondent Sanjeevi Ammal.

4. Learned counsel appearing for the appellant would submit that the Reference Court did not given any basis upon which Ex.C2 is accepted. This is with respect to the nearness of the the property mentioned therein with the property acquired. Consequently, the subject matter of the property is a developed one as against the undeveloped agricultural land which has been acquired.

5. Learned counsel appearing for the third respondent in the appeal, who is the second cross objector, would submit that the Court below has made 30% deduction towards development charges. However, the reasoning adopted cannot be sustained in the eye of law. Therefore, the enhanced compensation will have to be given as mentioned in Ex.C2.

6. We do not find any merit in the contention made by both the counsel. The Reference Court has rightly taken into consideration of Ex.C2. While doing so, the Reference Court has not given valid reason. We do not find any error in the order passed by the Reference Court. Initially, the Court below has made the deduction towards the development charges. Admittedly, the property involved in Ex.C2 is a developed property of lesser extent. Therefore, 30% deduction has been rightly taken into consideration by the Reference Court. In such view of the matter, we do not find any reason to interfere with the award passed by the Reference Court.

7. Accordingly, both the appeal and the cross appeals stand dismissed. However, it is for the second cross objector/third respondent to take steps before the appropriate forum to show

the genuineness of the Will, which he relied upon. No costs.
Consequently, connected MP No. 1 of 2012 is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssm

To:

The Additonal District Judge,
Fast Track Court-III,
Poonamalle

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.S.Balasubramanian , Advocate SR.No. 12681

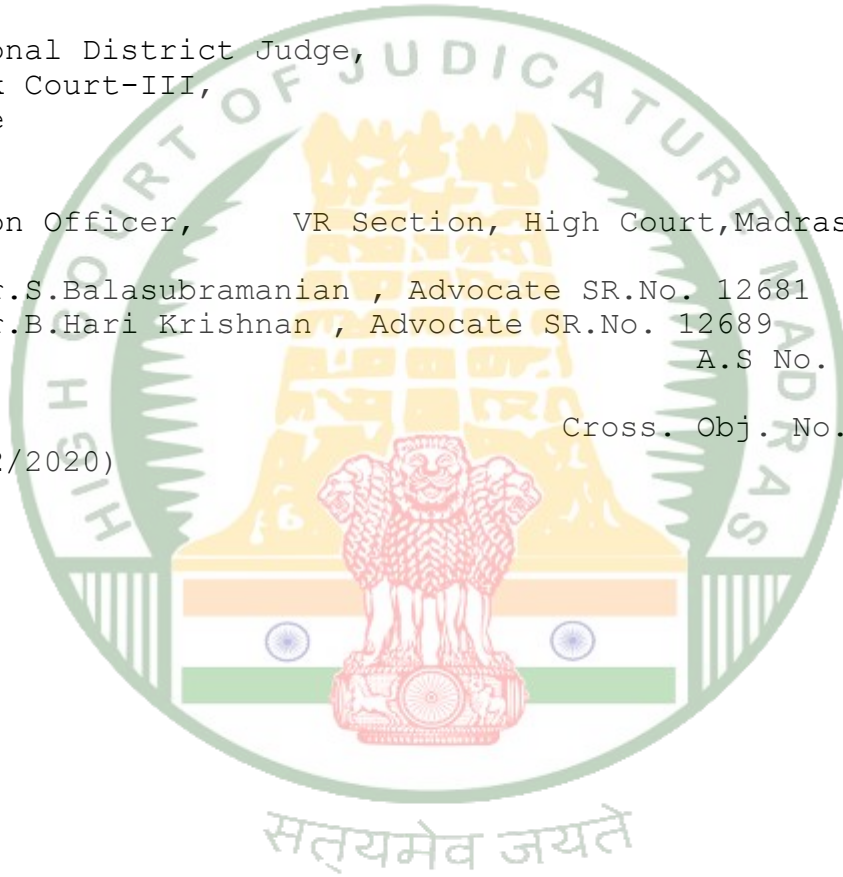
+1cc to Mr.B.Hari Krishnan , Advocate SR.No. 12689

A.S No. 538 of 2006

and

Cross. Obj. No. 18 of 2008

A.SK(24/02/2020)



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