

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS. JUSTICE T. KRISHNAVALLI

Appeal Suit No.743 of 2015

The Special Tahsildar,
Land Acquisition,
Chennai City Water Ways Scheme,
Ambattur, Chennai - 600 053.

..Appellant/
Land Acquisition Officer

Vs.

1.Eswari
W/o.Sukumaran

..1st Respondent/Claimant

2.The Executive Engineer,
Public Works Department,
Kosasthalaiyar Basin Division,
Thiruvallur.

..2nd Respondent/Referring Officer

Appeal filed under Section 54 of The Land Acquisition Act
against the Judgment and Decree dated 05.11.2014 made in
L.A.O.P.No.36 of 2006 on the file of Subordinate Judge, Ponneri.

For Appellant	:	Mr.J.Balagopal Special Government Pleader (AS)
For Respondents	:	Mr.N.Manikandan for Mr.J.Mahalingam for R1

JUDGMENT

(Judgment of the Court was delivered by R. SUBBIAH, J)

The Special Tahsildar, Land Acquisition, Chennai City Water Ways Scheme, Ambattur, Chennai - 600 053, has filed this appeal under Section 54 of The Land Acquisition Act questioning the correctness and/or validity of the Judgment and Decree dated 05.11.2014 made in L.A.O.P.No.36 of 2006 on the file of Subordinate Judge, Ponneri. By the said Judgment dated 05.11.2014, the learned Subordinate Judge, Ponneri, enhanced the compensation amount awarded by the Land Acquisition Officer for the lands acquired from the first respondent herein, from Rs.16/- to Rs.600/- per square feet or Rs.2,61,600/- per cent.

2. The appellant herein has proposed to acquire the lands measuring a total extent of 6 Hectares in Puthagaram Village, Ambattur Taluk, Thiruvallur District, for formation of a wider surplus course from Madhavaram Left Flank Weir to Redhills Surplus course under improvement of City Water Ways Scheme. For this purpose, a notification under Section 4 (1) of The Land Acquisition Act was issued on 16.12.2003. After complying with the formalities, an award was passed in Award No.1 of 2005 dated 01.07.2005 by which a sum of Rs.16/- per square feet was fixed as compensation for the acquired lands, including the land of the first respondent herein, measuring an extent of 1616 square feet. Aggrieved by the quantum of compensation awarded by the Land Acquisition Officer at Rs.16/- per square feet, the land owner/first respondent herein sought for a reference under Section 18 of The Land Acquisition Act. Accordingly, a reference was made and it was taken on file as L.A.O.P.No.36 of 2006 on the file of learned Subordinate Judge, Ponneri.

3. Before the Reference Court, similar references made at the instance of land owners, were also taken up for hearing together and common evidence was let in. On behalf of the claimants before the Reference Court, one Joshua, claimant in L.A.O.P.No.186 of 2007, was examined himself as CW1 and Exs. C1 and C2 were marked. On behalf of the Land Acquisition Officer, Mr.R.Dhanakoti, Special Tahsildar (LA) was examined as RW1, however, no documentary evidence was marked. The Reference Court, upon analysing the oral and documentary evidence, particularly Ex.C2, letter issued by the Sub-Registrar, Ambattur indicating the guideline value of the lands, concluded that the guideline value of the lands in question ranges between Rs.200/- to Rs.1,025/- and therefore fixing a sum of Rs.600/- as market value for the acquired land will be proper. Accordingly, the Reference Court fixed a sum of Rs.600/- per square feet as compensation for the acquired land. Contending that such amount of compensation awarded by the Reference Court is exorbitant besides it was passed without any documentary evidence, the Land Acquisition Officer has preferred this appeal.

4. The learned Special Government Pleader appearing for the appellant would vehemently contend that the Reference Court ought not to have fixed the market value of the acquired lands on the basis of the prevailing guideline value and it cannot be the basis for fixing compensation for the acquired land. The Reference Court did not take note of the locational advantage situated in the locality, potentiality of the acquired lands for being developed etc., but straight away fixed the market value of the acquired lands on the basis of the prevailing guideline

value indicated under Ex.C2. The Reference Court did not take note of the fact that the land acquisition officer had collected 1169 sale transactions for fixing the market value of the acquired lands between 16.12.2000 to 15.12.2003 and after discarding the irrelevant sale transactions had placed reliance on three sale deeds relating to the lands in Survey No.22/5B. As per the sale deeds registered as document Nos.1295/2001, 1296/2001 and 1297/2001 in Survey No.22/5B, one cent of land was sold at Rs.6,976.12 and therefore, based on the same, the land acquisition officer has rightly fixed the value of the acquired lands at Rs.16/- per square feet. Further, the data land taken into account by the Land Acquisition Officer is situated very near to the acquired lands and therefore the value fixed by the acquisition officer is probable and reasonable. The Reference Court, without regard to the determination of value of the acquired land by the Land Acquisition Officer, erroneously relied on Ex.C2 to arrive at the compensation amount at Rs.600/- per square feet. Except Ex.C2, there was no other documentary evidence filed by the Claimant before the Reference Court to show the prevailing market value of the acquired lands, while so, the amount of Rs.600/- per square feet arrived at by the Reference Court is exorbitant. Further, during the pendency of the above appeal, on behalf of the claimant, CMP No. 5394 of 2019 has been filed to mark certain additional documents to show the value of the acquired lands. However, the said Petition was withdrawn by the claimant/first respondent. Even if the documents which were sought to be marked on behalf of the claimant in CMP No. 5394 of 2019 are taken into account, the highest value reflected thereon is in the sale deeds dated 07.04.2003 and 03.09.2003, where the market value indicated is Rs.70/- per square feet. Therefore, it is submitted by the learned Special Government Pleader appearing for the appellant that the market value of the acquired lands has been correctly fixed by the land acquisition officer by relying upon the sale statistics. On the other hand, the Reference Court by erroneously relying upon the prevailing guideline value indicated under Ex.C2, fixed the value of the acquired lands at Rs.600/- per square feet. Such a value fixed by the Reference Court is without any legally acceptable evidence besides being onerous. Therefore, the learned Special Government Pleader appearing for the appellant prayed for allowing the Appeal Suit by confirming the market value fixed by the Land Acquisition Officer at Rs.16/- per square feet.

5. Per contra, the learned counsel for the first respondent/claimant would contend that the Land Acquisition Officer had scrutinised 1169 sale transactions and zeroed in on the value indicated under sale deeds dated 15.03.2001 registered

as document Nos.1295/2001, 1296/2001 and 1297/2001 in Survey No.22/5B, wherein one cent of land was sold at Rs.6,976.12. The Land Acquisition Officer ought not to have relied on the aforesaid sale transactions especially the sale transactions therein were made at least two years prior to the notification dated 16.12.2003 under Section 4 (1) of The Land Acquisition Act and those transactions does not reflect the correct and real value of the acquired lands. On the other hand, Ex.C2, letter issued by the Sub-Registrar, Ambattur indicate the prevailing guideline value as on the date of notification dated 03.12.2003 under Section 4 (1) of the Land Acquisition Act which can very well be relied on by the Reference Court. Further, even when the claimants before the Reference Court purchased the lands in question on various dates between 1987 to 1998, the average market value of the land was Rs.250/- per square feet, while so, fixing a sum of Rs.16/- per square feet is very meagre. The lands acquired from the claimant is a residential housing plot and it has the potentiality for putting house constructions. Further, the acquired lands are surrounded by schools, colleges, hospitals and commercial establishment and therefore, the scope for development of the acquired lands is immense. In such view of the matter, the Reference Court has rightly awarded a sum of Rs.600/- per square feet for the acquired lands and it calls for no interference by this Court.

6. We have heard the learned counsel on either side and perused the records placed. The land of the claimant/respondent herein was sought to be acquired by the appellant by invoking the provisions of the Land Acquisition Act for a public purpose. The notification under Section 4 (1) of the Land Acquisition Act was issued on 16.12.2003 and thereafter, by adhering to the procedural formalities, the Land Acquisition Officer has passed an award in Award No.1 of 2005 dated 01.07.2005. In so far as the land of the first respondent herein is concerned, the Land Acquisition Officer has fixed a sum of Rs.16/- per square feet. The claimant therefore sought for a reference for enhancement of the compensation amount and accordingly, a reference was made and the case of the claimant was taken on file as L.A.O.P.No.36 of 2006. The Reference Court, by placing reliance on Ex.C2, a letter issued by the Sub-Registrar, Ambattur indicating the then prevailing guideline value, has enhanced the compensation for the acquired lands at Rs.600/- per square feet. The Reference Court observed that the market value in respect of the acquired land ranges between Rs.200/- to Rs.1,025/- per square feet and therefore a sum of Rs.600/- per square feet was fixed as compensation. Such a compensation arrived at by the Reference Court is assailed in this appeal on the ground that the guideline value indicated under Ex.C2 cannot form the basis for

fixing the market value for the acquired land. Further, in the absence of any other concrete evidence adduced on behalf of the claimant, who sought for reference for enhancement of compensation, the Reference Court is not justified in awarding compensation at Rs.600/- per square feet for the acquired lands.

7. We see much force in the submission of learned counsel for the appellant that the guideline value indicated under Ex.C2 cannot be the basis for the Reference Court to fix the market value of the acquired lands. We also find that the Claimant, who sought for a reference for enhancement of compensation, is bound to produce documentary evidence to show that the market value of Rs.16/- fixed by the Land Acquisition Officer is very meagre and did not reflect the correct market value. Admittedly, the claimant did not produce any documentary evidence but wholly relied upon Ex.C2, letter issued by the Sub-Registrar, Ambattur in which the guideline value of the land in question was indicated as Rs.200/- to Rs.1025/-. It is also seen from the claim petition filed by the claimants before the Reference Court that even at the time of purchase of the lands between 1987 and 1998, the market value of the land was not less than Rs.250/- per square feet besides the acquired land has the potentiality for putting up residential houses. The claimant also contended that the acquired land is surrounded by many commercial establishment and therefore, there is enormous scope for increase in the value of the acquired lands.

8. Having regard to the above facts, we are of the view that for the purpose of fixing the market value of the acquired lands, the guideline value indicated under Ex.C2 cannot be wholly relied upon, however, it can be looked into to infer the guideline value of the acquired land and to fix the market value, in the absence of any other concrete evidence. Further, for fixing the market value of the acquired lands, the potentiality for development of the land value in the locality, nature of the land - whether agricultural land or residential plots, locational advantage etc., can also be taken note of. In the light of the above, taking into account the over all facts and circumstance of the case, we feel that interests of justice will be met if a sum of Rs.300/- per square feet is fixed as compensation for the acquired land as against the sum of Rs.600/- per square feet fixed by the Reference Court.

Accordingly, the Appeal Suit is allowed by modifying the sum of Rs.600/- per square feet awarded by the Reference Court to Rs.300/- per square feet. In all other respects, the award passed by the Reference Court is confirmed. No costs. Consequently, connected miscellaneous petition is closed. The

appellant is directed to deposit the compensation amount for the land acquired from the first respondent to the credit of L.A.O.P.No.36 of 2006 on the file of Subordinate Judge, Ponneri, with interest, solatium etc., as awarded by the Reference Court within a period of six weeks from the date of receipt of the copy of this Judgment.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge
Ponneri.

Copy to : The Section Officer
VR Section, High Court of Madras, Chennai.

+2cc to Mr.J.Mahalingam, Advocate Sr.No.82774

AKM/11.02.2020 /6P-5C/

A.S.No.743 of 2015