

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

APPEAL SUIT NO.692 OF 2010

The Land Acquisition Officer,
(Special Tahsildar),
Hosur.

...Appellant/Respondent

Vs.

Prema

...Respondent/Claimant

Appeal Suit filed under Section 54 of the Land Acquisition Act against the judgment and decree passed in L.A.O.P.No.133 of 1987 dated 17.10.1996 on the file of the Subordinate Judge, Krishnagiri.

For Appellant : Mr.J.Balagopal
Spl.G.P. (AS)

For Respondent : Mr.C.Prabakaran

JUDGMENT

The Appeal Suit is filed against the Judgment and decree passed in L.A.O.P.Nos.122, 123, 125, 126, 127, 129 to 133 of 1987 dated 17.10.1996.

2.The appellants filed this First Appeal challenging the enhancement of compensation award in favour of the land owners in the Land Acquisition proceedings. In nut shell, the Competent Authority under the Land Acquisition Act (for brevity 'the Act') fixed Rs.5,914/- per acre as compensation. The L.A.O.P. Court considered the judgment and decree passed in another L.A.O.P. case with reference to the land situated adjacent to the subject matter of the land in the present L.A.O.P. and accordingly enhanced the compensation to Rs.54,444/- per acre. The appellant have questioned the enhancement mainly on the ground that the Subordinate Court has committed an error in enhancing the market value exorbitantly to Rs.54,444/- per acre, which is contrary to the procedures contemplated under the Act. The Trial Court relied upon the Ex.P.1, which is the judgment of the same Court, with reference to the earlier proceedings and the Trial Court

has not verified whether any appeals were pending against that judgment or not. The claimants have embarked on the earlier judgments of the same Court and those two judgments ought to have been rejected by the Trial Court under Section 18 of the Act.

3.The learned Special Government Pleader (AS) appearing on behalf of the appellants reiterated that the Trial Court has not considered the location, the tharam, position etc., of the lands acquired. The learned Special Government Pleader contended that the topography of land is not properly appreciated by the L.A.O.P. Court and the compensation was enhanced exorbitantly which is not in proportion with reference to the compensation fixed by the Competent Authority under the Act. The Trial Court ought to have rejected the two judgments cited by the claimants under Section 18 of the Act. Thus, the enhancement is perverse and consequently, the judgment and decree are liable to be scrapped.

4.The learned counsel appearing on behalf of the respondent/claimants disputed the said contentions by stating that the lands were acquired for the purpose of constructing a Government Polytechnic in the outskirts of Krishnagiri Town. Now, Krishnagiri is the District Headquarters, after the acquisition proceedings, the value of the land has also increased several times. The property acquired is situated adjacent to the National Highways Road, more specifically on Chennai - Bangalore Highway and therefore there is no error in respect of the enhancement made by the Trial Court. The learned counsel appearing on behalf of the respondent/claimant reiterated that the two judgments of L.A.O.P. Court were cited for the purpose of enhancement of compensation as those two judgments were delivered in respect of the land situated adjacent to the acquired land, which is the subject matter of the present appeal. Therefore, there is no perversity as such in respect of the enhancement made by the L.A.O.P. Court.

5.Considering the arguments, this Court is of the considered opinion that right of property is a Constitutional Right. A person, who is relinquishing such right must be suitably compensated. Though, the right is statutory right, the loss occurred to a person is to be redressed and the objections raised in this regard must be reasonable and candid. The right of property of a citizen is a valuable right. The acquisition was done for the development of the Government Polytechnic, on public interest.

6. Courts in normal circumstances, will not interfere in the acquisition proceedings. However, the Courts must be lenient and consider the consequences and the loss of property right to a citizen and suitably award compensation. In other words, Courts must have liberal approach in grant of compensation in such acquisitions, which are done in the main locations. The location of the acquired lands are not disputed by the parties. The Government Polytechnic was already established. The property in question is situated in the outskirts of Krishnagiri town and after acquisition, the Krishnagiri town was made as District Headquarters and therefore, undoubtedly, the value of the land would have increased several times. These facts are submitted by the claimants for the purpose of considering the enhancement.

7. This apart, the respondent/claimants had cited two judgments of the L.A.O.P. Court, wherein the compensation was enhanced in respect of the lands situated adjacent to the land acquired. This being the consideration shown by the Trial Court, this Court is of the opinion that there is no perversity as such in respect of the enhancements made.

8. The learned Special Government Pleader made a submission that the development charges were not directed to be deducted, which is a statutory requirement and therefore the development charges are to be adjusted from the amount of compensation awarded. Undoubtedly, statutory requirements are to be complied with. The minimum development charges to be recovered is 33% from the total compensation, which is to be calculated proportionately, with reference to the extent of land acquired from each claimants. Keeping in view that the statutory requirements are to be complied with, and there is no infirmity as such in respect of the enhancement made by the L.A.O.P. Court, this Court has no hesitation in arriving at the conclusion that there is no perversity in respect of the findings of the Land Acquisition Proceedings and enhancement is made based on the various judgments of the same Court, which had become final and were not reversed or modified by the Appellate Court. Therefore, the appellants are bound to pay the enhanced compensation to the respondent/claimants.

9. This being the factum, the judgment and decree passed in L.A.O.P. Nos. 122, 123, 125, 126, 127, 129 to 133 of 1987 dated 17.10.1996 are confirmed to the extent of enhanced compensation from Rs.5,914/- per acre to 54,444/- per acre. However, the development charges of 33% from the total amount of compensation is to be deducted and the balance amount of compensation is directed to be settled to the respondents/claimants within a

period of 12 weeks from the date of receipt of copy of this judgment.

10. Accordingly, the Appeal Suit stands partly allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrm

To

The Subordinate Judge,
Krishnagiri.

Copy To

The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.103311

+1cc to the Special Government Pleader, S.R.No.103606

A.S.No.692 of 2010

TM(CO)
CS/31/07/2020



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