

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2019

CORAM

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

A.S.Nos.723 & 724 of 2009

Mariappa Naicker (deceased) ...1st Appellant/Claimant

M.Kesavan

(2nd appellant brought on record
as LRS of the deceased sole appellant
vide order dated 22.03.2017 made in
MP.Nos.1 to 3/10 in AS.No.723/09

...2nd Appellant 1 & 2 in A.S.No.723/09

1.G.Natarajan

2.G.O.Pinagapani

3.E.Devaki

4.D.Vasanthan ..Appellants 1 to 4/Claimants 2 to 5

K.Megala (deceased)

R.Thiagarajan

S.Premila

R.Porkodi ..Appellants 6 to 8/Claimants 6 to 8

E.Kanagarajan

K.Sambamoorthy

K.Vijayakumar

(Appellants 9 to 11 brought on record
as LRS of the deceased 5th appellant
vide order dated 22.03.2017 made in
CMP.Nos.3038 to 3040/2017 in
AS.No.724/2009

...Appellant 9 to 11 in A.S.No.724/09

(Appellants 2 to 8 are rep by their
power of Attorney Agent G.Natarajan)

Vs.

1.The Special Tahsildhar,
L.A. II, National Highways,
Madras - 90.
Now in-charge,
The Revenue Divisional Officer,
Ambattur, Chennai - 600053.

2.National Highways Authority
of India,
Ministry of Surface Transport,
No.1/54-28, Butt Road,
St.Thomas Mount,
Chennai - 600016. ...Respondents/Respondents in both
cases
(Cause title amended vide order
dated 26.09.2013 made in
MP.No.1/2013)

Prayer in A.S.No.723 of 2009: Appeal Suit filed under Section 54 of Land Acquisition Act against the Judgment and Decree of the Additional District Judge - Fast Track Court No.III, Poonamallee, dated 29.10.2004 made in L.A.O.P.No.19 of 90 and fix the market value of the appellants lands in the said reference at Rs.5,600/- per cent and grant all the benefits under the Land Acquisition Act.

Prayer in A.S.No.724 of 2009: Appeal Suit filed under Section 54 of Land Acquisition Act against the Judgment and Decree of the Additional District Judge - Fast Track Court No.III, Poonamallee, dated 29.10.2004 made in L.A.O.P.No.22 of 90 and fix the market value of the appellants lands in the said reference at Rs.5,600/- per cent and grant all the benefits under the Land Acquisition Act.

For Appellants : Mr.G.Mohana Krishnan
(in both cases)

For Respondents: Mr.J.Balagopal, Spl. G.P (AS)
(in both cases) for R1

Mr.G.Rajan
for R2 (SCGSC)

COMMON JUDGMENT

The common Judgment and Decree passed in L.A.O.P.No.19 of 1990, dated 29.10.2004 and the common Judgment and Decree passed in L.A.O.P.No.22 of 1990, dated 29.10.2004 are put under challenge in the present Appeal Suits. The claimants are the appellants in the Appeal Suits and the Appeal Suits are filed seeking enhancement of compensation.

2. Admittedly, the Special Tahsildar, Land Acquisition fixed the compensation at Rs.400/- per cent. Thereafter, the issue was referred under Section 18 of the Land Acquisition Act before the learned Additional District Judge, Fast Track Court No.III, Poonamallee and the Trial Court adjudicated the issues with reference to the documents filed by the claimants.

3. The ground raised by the appellants in these Appeal Suits is that having taken the sale deeds Exs. C1 and C2 as the basis for fixing the market value for the lands acquired, the Trial Court has failed to provide the allowance for the lapse of time. The sale deeds Exs. C1 and C2 are the documents relied upon by the claimants for enhancing the compensation from Rs.400/- to Rs.6,545/-. Relying on these two documents, the appellants are of the opinion that the Trial Court has committed an error in not granting the allowance for lapse of time and therefore, enhancement is to be considered in these Appeal Suits.

4. Sale deeds Exs. C1 and C2 documents are the documents registered in respect of the adjacent lands to the acquired lands, which were relied upon by the Trial Court for the purpose of fixing just compensation to the land losers. The documents relied upon by the Trial Court are filed by the appellants/claimants themselves and as per those documents, the value with reference to the adjacent lands are Rs.6,545 and Rs.6,131/- respectively. Relying on these two documents, enhancement of compensation was sought for by the appellants/claimants. Even in the grounds raised in the Appeal Suits, it is contended that the Trial Court should have allowed 15% for escalation in price for two years from the date of sale deeds C1 and C2 to the date of 4(1) Notification.

5. The learned Special Government Pleader (AS) appearing on behalf of the first respondent, as well as the learned counsel appearing on behalf of the second respondent opposed the contentions of the appellants by stating that the Trial Court itself considered two documents Exs. C1 and C2 filed by the appellants/claimants. This apart, the appellants/claimants filed C3 sale deed, which pertains to another land situated to the adjacent land. Even as per the C3 document, the value per cent is Rs.6,545/-. There was not much difference and more so, C3 document was registered on 06.05.1987 and considering all these factors, the escalation of 15% was declined by the Trial Court. When the document pertains to the adjacent lands, which are all registered during the period of acquisition, then there is no reason for granting compensation on the basis of the possible escalation and such possible escalation during the relevant point of time had not been established by the appellants/claimants before the Trial Court.

6. At this outset, three documents C1, C2 and C3 were considered by the Trial Court for enhancement of compensation and admittedly, the Land Acquisition Officer fixed the

compensation at Rs.400/- per cent and the Trial Court meticulously considered all these documents and adjudicated various issues raised by the parties to the L.A.O.P. proceedings. In a detailed discussion, the Trial Court arrived at a conclusion that all these three documents are registered in respect of the adjacent lands of the acquired lands. In all the three documents, the value is also almost similar, i.e., Rs.6,131/-, Rs.6,545/- and Rs.6,545/- respectively. Considering all these three documents and by deducting the development charges of 1/3rd portion, a sum of Rs.4,100/- was fixed by the Trial Court, which is considered as a just compensation.

7. This Court is of the considered opinion that property right is a valuable right of a citizen. The land losers are to be granted just compensation as the acquisition affects their property rights and under those circumstances, fixation of fair compensation is of paramount importance. Courts have to adopt not only a liberal approach, but constructive approach is also required in order to ascertain the just compensation to be paid to the land losers.

8. In the present case on hand, undoubtedly, the land is situated in the sub urban of Chennai District and subsequently, the possibility of enhancement was there during the relevant point of time. The original compensation was fixed as Rs.400/- per cent and the Trial Court considered the sale deeds registered in respect of the adjacent lands and in this regard, three documents were referred and all those documents were filed by the appellants/claimants themselves. When the documents filed by the appellants/claimants were considered by the Trial Court and based on the documents, the compensation is also fixed without reducing the amount, then there is reason for seeking further enhancement without any basis.

9. Undoubtedly, if any additional documents are filed in the Appeal Suits before this Court and those additional documents, which were referred as documents C1 and C2 in the present case, this Court can consider such documents for the purpose of escalation for such compensation. Contrarily seeking for more compensation is insufficient. Any escalation must be sought for based on certain documents in respect of the registration of adjacent lands during the relevant point of time, when the acquisition proceedings were initiated.

10. C3 document, which is a sale deed, was registered in the year 1987, the acquisition proceedings were concluded in the year 1989 and the 4(1) notification dated 03.07.1986. Thus, the C3 document was registered after the issuance of 4 (1) notification and during the pendency of the acquisition proceedings. All the three documents were considered by the Trial Court in entirety and the escalation was granted based on the document and accordingly, Rs.6,131/- was accepted as a fair compensation by the Trial Court, based on the documents filed and by deducting the development charges of 1/3rd

portion, a sum of Rs.4,100/- per cent was fixed by the Trial Court.

11.This Court has to consider whether the appellants have raised any acceptable grounds for the purpose of further enhancement. Undoubtedly, further enhancement is to be made by the High Court, only if the appellants are able to provide some other documents or proof to establish that the compensation fixed by the Trial Court is inadequate. In this regard, no such additional documents are filed by the appellants and in the absence of any such additional documents or any proof to establish that the value of the land during the relevant point of time was higher than that of the compensation fixed by the Trial Court, there is no reason for this Court to interfere with the compensation arrived by the Trial Court.

12.At the outset, in the absence of any additional documents or any proof to establish the prevailing market rate during the relevant point of time, this Court cannot enhance the compensation, without any basis and accordingly, the common Judgment and Decree passed in L.A.O.P.No.19 of 1990, dated 29.10.2004 and the common Judgment and Decree passed in L.A.O.P.No.22 of 1990, dated 29.10.2004, are confirmed. Consequently, the Appeal Suits in A.S.Nos.723 & 724 of 2009, stand dismissed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

hvk

To

1.The Additional District Judge,
Fast Tract Court No.III, Poonamallee.

2.The Special Tahsildhar,
L.A. II, National Highways,
Madras - 90.
Now in-charge,
The Revenue Divisional Officer,
Ambattur, Chennai - 600053.

3.National Highways Authority
of India,
Ministry of Surface Transport,
No.1/54-28, Butt Road,
St.Thomas Mount,
Chennai - 600016.

+2cc to Mr.N.Rajan, Advocate SR.No.104968 & 104969

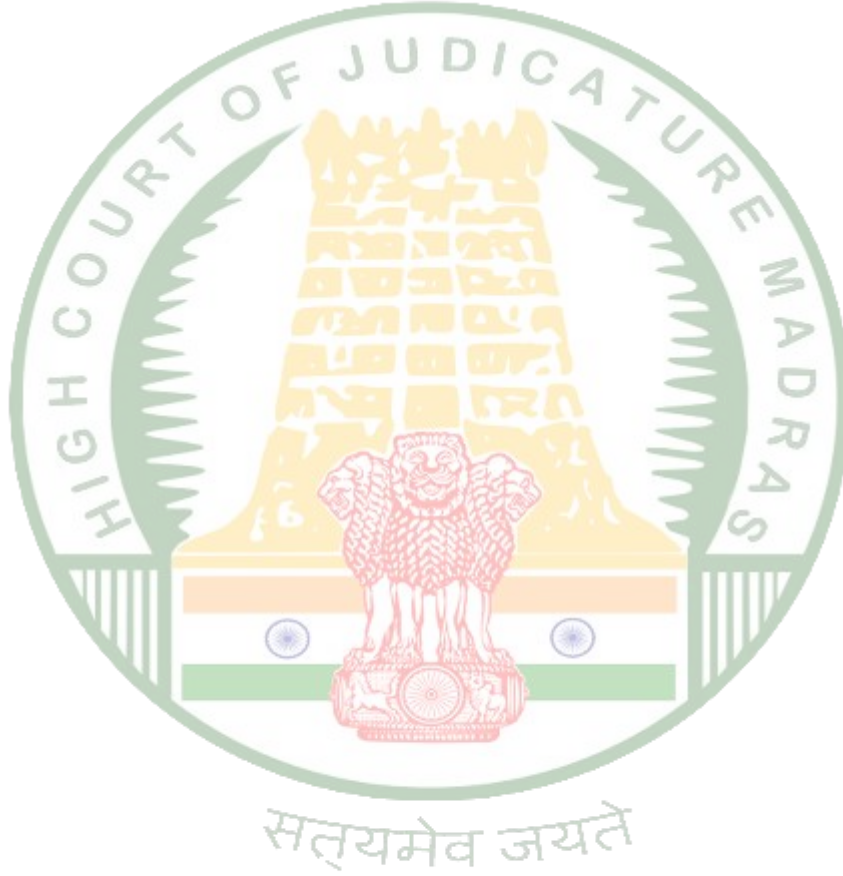
+2cc to Mr.G.Mohana Krishnan, Advocate SR.No.105404 & 105405

+2cc to Special Government Pleader (AS) SR.No.105089, 105090

A.S.Nos.723 & 724 of 2009

VD(CO)

GMV(18/03/2020)



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