

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM

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

A.S.No.509 to 512 of 2004

1.The Special Tahsildar,
Land Acquisition,
Tamil Nadu Housing Scheme,
Cuddalore.

2.The Executive Engineer & Admn.Officer,
Villupuram Housing Unit,
Tamil Nadu Housing Board,Villupuram.
..Appellants in all A.S's

A2 is impleaded as party vide
order dated 19.07.2010 made in C.M.P.No.411 to 414/2010.

Vs.

Sundaramoorthy ..Respondent in A.S.No.509 of 2004

Kaliyamoorthy ..Respondent in A.S.No.510 of 2004

Kandaswamy ..Respondent in A.S.No.511 of 2004

1.Kannaiyan[Died]

2.Saravanakumar

3.Malathi

4.Valarmathi

5.Vanmathi ...R1 to R5 in A.S.No.512 of 2004

R2 to R5 in A.S.No.512 of 2004 are impleaded as
LR's of the deceased sole respondent vide order dated
05.12.2019 made in C.M.P.No.577 of 2011 in A.S.No.512 of 2004

Common Prayer : First Appeal filed against the Judgment &
Decree dated 31.01.2003 passed in L.A.O.P.Nos.29, 32 to 34 of
2002 on the file of the Additional District and Fast Track
Court No.II, Cuddalore.

For Petitioner
in all A.S's

: Mr.J.Balagopal
Special Government Pleader
for A1.
Non-appearance for A2

For Respondent :Mr.T.S.Baskaran
in AS.509,510, 511/04

For Respondents 2 to 5 in AS.No.512/2004

C O M M O N O R D E R

The appeal suits are directed against the judgment and decree passed by way of a common order in L.A.O.P.Nos.29, 32 to 34 2002 on 31.01.2003. All these appeals are filed challenging the enhancement of compensation awarded by the Trial Court. The grounds raised in all these first appeals are already adjudicated by this Court elaborately and a judgment was delivered on 19.09.2019 in a batch of cases in A.S.No.640 to 645 of 2009 and the findings of the said judgment are as under:

3.Shorn of unnecessary details, the lands of the claimants/respondents in the suit village had been acquired for the purpose of providing housing facilities by the Tamil Nadu Housing Board. It is found that the acquisition authority had fixed the compensation for the acquired lands at the rate of Rs.500/- per cent and accordingly, proceeded to determine the compensation payable to the claimants under the Land Acquisition Act. Not being satisfied with the same, the claimants put forth their objections and accordingly, reference was made before the Court below for determining the just compensation.

4.Before the Court below, on behalf of the claimants CWs1 to 4 were examined and Exs.C1 to C5 were marked and on behalf of the acquisition authority, RW1 was examined and Exs.R1 to R7 were marked.

5.On a consideration of the abovesaid materials available on record, the Court below had proceeded to fix the market value of the lands acquired by determining the value at the rate of Rs.5000/- per cent and accordingly, arriving at the compensation payable to the claimants. Aggrieved over the same, the Land Acquisition Authority has preferred the present appeals.

6.The following points arise for determination in the appeals:

" (i).Whether the compensation fixed by the Court below is just and correct?

(ii).To what relief the claimants are entitled to?

(iii).To what relief the respondent/appellant is entitled to?"

7.Point No.1

Mainly it is contended by the claimants that the lands acquired are situated in the peripheral of the Municipality of Cuddalore and in the vicinity of the same, the various approved layouts had been formed and furthermore, the abovesaid lands have immediate access to Cuddalore -Chithoor Highway and District Industries Centre and other industrial outfits are located nearby and School facilities are also available and accordingly, contended that the purpose, for which lands had been acquired, is only to form to house sites and accordingly, the rate should have been fixed only on the basis of the house site and on that foundation put forth the case that the value arrived at by the Court below is just and correct and not liable to be interfered.

8.Per contra, according to the Government Pleader, the Court below had fixed the value without any rhyme or reason and also without any basis and according to him, the Court below had fixed the value of the land based on the decree passed in L.A.O.P.No.29 of 2002 on its file which cannot be sustained and according to him, the Land acquisition Authority had rightly fixed the value by relying upon the data documents marked as Exs.R4 & R5 and therefore, the compensation arrived at by the Court below is liable to be set aside as unreasonable and exorbitant.

9.During the course of arguments, the Government Pleader put forth the submissions that in respect of the lands covered under the notifications, this Court in the decision rendered in A.S.Nos.509 to 512 and 761 to 763 of 2004 dated 03.09.2010 following the decision of the Division Bench of this Court and also after considering the date of the notifications involved in the matter, accordingly, considering the land costs that would have gone up and appreciated especially the lie of the lands situated in the Cuddalore Municipal Town Limits and the same is a growing urbanization and if duly given 10% appreciation of the land costs, ultimately, worked out the compensation at Rs.1750/- per cent and prayed that the same value should also be adopted by this Court and accordingly, the appeal be disposed of in terms thereof.

10. Though the claimants' counsel contended that the Division Bench judgment relied upon by the Single Judge in the abovesaid case referred to by the Government Pleader had been put in challenge before the apex Court, however, as could be seen from the judgment passed by the single judge, it is seen that he has not in toto applied the principles evolved by the Division Bench while arriving at the compensation and on the other hand, it is found that the single judge, after considering the judgment of the Division Bench and also after noting the date of S.4(1) notifications involved in the matter i.e. on 07.01.1992 and considering the lie of the lands being situated in the Municipal Town Limits of Cuddalore and after giving due appreciation to the value of the same, is found to have determined the value of the land at Rs.1,750/- per cent.

11. As abovenoted, the lands involved for consideration before the Division Bench are also found to be located in the same locality, similarly, the lands covered in the judgment rendered by the Single Judge is also located in the similar locality, the lands covered in the present cases are also located in the same locality, in such view of the matter, considering the lie of the lands, they also being located near the peripheral of Cuddalore Municipal Limits and having access to various facilities and thereby, the value of the land would have considerably enhanced and also keeping into consideration that the purpose of the acquisition was only to provide housing site, in all, it is found that as rightly contended by the Government Pleader, when the learned single judge in the abovesaid cases referred to, had taken into consideration the abovesaid factors and found to have rightly determined the compensation, in such view of the matter, I do not find any valid reason to deviate from the abovesaid determination of the learned Judge and accordingly, for the reasons aforestated, I hold that the compensation for the lands acquired should be fixed at Rs.1750/- per cent together with other statutory benefits, to which, the claimants would be lawfully entitled to. Accordingly, the point No.1 is answered.

12. Point Nos.2 & 3

For the reasons aforestated, all the abovesaid first appeals shall stand allowed partly and the Judgement and Decree of the Court below are modified and the compensation is fixed at Rs.1750/- per cent together with other statutory benefits, to which,

the claimants would be entitled to. Considering the facts of the case, there is no order as to costs.

2. In view of the aforementioned reasons, all the first appeals stand allowed partly and the Judgment and Decree of the Trial Court are modified and the compensation is fixed at Rs.1750/- per cent together with other statutory benefits, to which, the claimants would be entitled to. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To

The Additional District and Fast Track Court No.II,
Cuddalore.

Copy to:
The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.T.S.Baskaran,advocate,sr.10149.

Krd 28/12

A.S.Nos.509 to 512 of 2004



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