

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.11.2019

PRONOUNCED ON : 06.12.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

A.S.No.493 of 2014

Francis

...

Appellant

Vs.

1.The Land Acquisition Officer
cum Tahsildar, Hosur.

2.Girijamma

3.Siriyaa

4.Rosemary

5.G.S.Nagaraaj

6.Munireddy

7.C.Muthusamy

8.Gowramma

....

Respondents

(No relief claimed as against the
respondents 2 to 8 in this appeal
hence, notice may be dispensed with
hence, this respondents given up)

Prayer:- First Appeal has been filed under Section 54 of the
Land Acquisition Act against the judgment and decree dated
07.03.2010 passed in L.A.O.P.No.696 of 1996 on the file of the
Subordinate Judge, Hosur.

For Appellant : Mr.D.Shivakumaran

For Respondent No.1 : Mr.J.Balagopal
Spe.Government Pleader (C.S.)

Respondent Nos.2 to 8 : Notice dispensed with

JUDGMENT

Aggrieved over the judgment and decree dated 07.03.2010
passed in L.A.O.P.No.696 of 1996 on the file of the
Subordinate Court, Hosur, the 4th claimant has preferred the
first appeal.

2.Shorn of unnecessary details, it is found that by way
of a notification dated 05.10.1989, the lands belonging to the

appellant and the others had been acquired for the formation of Inner Ring Road around Hosur town, after completing the procedures contemplated under the Land Acquisition Act and after conducting the enquiry, the Land Acquisition Officer had fixed the value of the acquired lands at Rs.2,74,351.25 per hectare and accordingly, determined the award payable to the claimants, whose lands came to be acquired. As the claimants opposed the value fixed by the Land Acquisition Officer and the award determined by him, it is found that the reference had been made to the referral Court for determining the just compensation, to which the claimants are entitled to. The referral Court, based on the materials placed on record and the submissions made, was pleased to determine the value of the acquired lands at Rs.5,08,646/- per acre and accordingly, determined the award, to which, the various claimants would be entitled to. Impugning the abovesaid award passed by the referral Court, the present appeal has been preferred by the 4th claimant. According to the appellant/4th claimant, the lands belonging to him are situated within the limits of Hosur Municipality and it consists of RCC building and the appellant has spent Rs.2,00,000/- in putting up the said construction and accordingly, it is put forth that the value fixed by the Land Acquisition Officer as well as the referral Court is grossly low and prayed for the enhancement of the award.

3.Per contra, the Government Pleader (CS) has contended that the referral Court has rightly determined the value of the lands with the building belonging to the appellant in the right perspective and on a proper appreciation of the materials placed on record and hence, no interference is warranted with reference to the same and accordingly, prayed for the dismissal of the appeal.

4.Therefore, the only point that arises for consideration in this first appeal is whether the award fixed by the referral Court is just and proper?

5.From the materials placed on record, it is found that in respect of the similar lands in L.A.O.P.No.710 of 1996, the value of the lands had been determined at Rs.5,08,646/- per acre. The same could be gathered from the order passed in L.A.O.P.No.710 of 1996 marked as Ex.C6. It is found that the abovesaid award had been challenged in the High Court and the same had been confirmed by the High Court and that apart, the further appeal preferred by the claimants in the apex Court had also been dismissed. Therefore, the referral Court on the footing that inasmuch as the value of the said lands is similar to the lands involved in the matter, and accordingly, determined the value of the lands at the rate of Rs.5,08,646/- per acre and proceeded to determine the award, to which, the various claimants are entitled to.

6.In so far as the case of the claimants is concerned, the referral Court has fixed the value of the superstructure

at Rs.90,000/- and accordingly, determined the compensation payable to him. In this connection, the contention has been put forth by the appellant's counsel that when the appellant has placed the value of the superstructure through the report of the civil Engineer, according to him, when the value had been determined by the Civil Engineer at Rs.1,90,000/- and the referral Court has erred in not accepting the abovesaid value as the same is approximately fixed and that the surveyor involved in the matter had not been appointed by the Government. However, as rightly determined by the referral Court, when it is seen that the Engineer, who had visited the property, had inspected the same nearly 9 years after the date of acquisition and when accordingly, the depreciation value has to be adopted during the relevant period and when the Engineer's report is only based on the approximation and not based on any concrete materials, in such view of the matter, the refferal Court has rightly not placed reliance upon the report of the Engineer and his evidence (who has been examined as C.W.3) and accordingly, considering the depreciation value, which have to be made during the relevant period and accordingly, fixed the value of the building at Rs.90,000/-. When the refferal Court has given valid and convincing reasons for fixing the value of the building at Rs.90,000/- and when the appellant/4th claimant has not placed any acceptable and reliable materials to deviate from the abovesaid determination of the referral Court and qua his contention that the report of the Civil Engineer, who had inspected the property, should be taken as a whole, however, when it is found that the value fixed by the Engineer is only on approximation without any concrete materials and failed to take the depreciation value during the relevant period, in all, the referral Court is found to be justified in fixing the value of the building of the appellant/4th claimant at Rs.90,000/- and accordingly, on the whole, determined the total award amounting to which he is entitled to, including the solatium sum and the interest, in such view of the matter, I do not find any valid reason to interfere with the award fixed by the referral Court. For the reasons aforestated, I hold that the award fixed by the referral Court is just and proper and no interference is warranted to the same.

For the reasons aforestated, the judgment and decree dated 07.03.2010 passed in L.A.O.P.No.696 of 1996 on the file of the Subordinate Court, Hosur, are confirmed and resultantly, the first appeal is dismissed. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sms

To
The Subordinate Court, Hosur.

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

+1cc to Mr.D.Shivakumaran, Advocate, S.R.No.102846

A.S.No.493 of 2014

SS (CO)

CB(26/08/2020)



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