

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.4038 of 2019

1.The District Collector,
Collectorate,
Dharmapuri District-636 705.

2.The Special Tahsildar,
Land Acquisition Officer-cum-
Adidraavidar Welfare,
Dharmapuri-636 701.

... Appellants

vs.

1.K.Srinivasan
2.M.Venkatachalam
3.M.Krishnan

... Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 12.06.2018 passed in W.P.No.1556 of 2018 on the file of this Court.

WP.1556/2018: Filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus directing the respondents to consider the petitioners' last representation dated 23/5/2017 and direct the respondents to deposit award amount with interest till dated in LAOP NO.142,149 &146/1996 respectively before the Additional District Court, Dharmapuri.

For Appellants : Mr.V.Anandamoorthy
Addl. Government Pleader

For Respondents : Mr.M.Muthappan
for Mr.V.R.Annagandhi

JUDGMENT
(Delivered by The Hon'ble Chief Justice)

Learned counsel for the appellant submits that this writ appeal has been filed praying that the learned Single Judge has erroneously issued directions for deposit of the balance amount of compensation for being credited to the respective Execution Petitions within a period of twelve weeks from the date of receipt of the copy of the order.

2. We had passed the following order on 20.11.2019 in C.M.P.No.15317 of 2019 in W.A.No. SR 83620 of 2019:

"We have gone through the pleadings. We have also heard the learned counsel for the respondents.

The learned counsel for the petitioners/appellants prays for time to obtain instructions more particularly with regard to the status of the Division Bench judgment, whereby the rate of compensation stands finalised.

In the event, SLP has been filed or the said judgment was modified in any way, information to that effect will be given to this Court.

Put up on 25.11.2019."

3. The respondents have also put in appearance.

4. It has been brought to our notice that against the Award passed by the Additional District Court, Dharmapuri, appeals had been filed by the State itself being A.S.Nos.929 to 931 of 2004, in which, the respondents had also filed Cross Objections being Cross Objection Nos.69 to 71 of 2015. The appeals were dismissed and the Cross Objections have been allowed. The judgment of the Division Bench dated 30.06.2015 is extracted herein under:

"These appeals and cross objections arise out of the enhancement of compensation ordered by the Land Acquisition Tribunal.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the Special Tahsildar/appellant and Mr.S.Parthasarathy, learned senior counsel appearing for the claimants, who have come up with cross objections.

3. By a notification dated 23.9.1994 issued under

Section 4(1) of the Land Acquisition Act, 1894, certain lands in V.Jettihalli Village, Dharmapuri Taluk and District were sought to be acquired for the purpose of providing house sites to the people belonging to Adi Dravida communities. By an award bearing No.4/94 passed on 20.10.1994, the Land Acquisition Officer fixed the compensation at Rs.71,630/- per hectare which worked out to roughly Rs.0.04 per sq.ft. The land owners sought a reference under Section 18. The Sub Court, Dharmapuri enhanced the compensation in some cases to Rs.12.50 per sq.ft. Aggrieved by such enhancement of compensation ordered by the Sub Court, the Special Tahsildar, Land Acquisition has come up with the above three appeals.

4. Contending that the enhancement granted by the Tribunal was wholly inadequate, the land owners have come up with the above cross objections.

5. It appears from the award of the Tribunal that on the side of the claimants, two witnesses were examined. A sale deed dated 03.5.1993 was filed as Ex.C1. The date of the notification under Section 4 (1) was 23.9.1993. Under Ex.C1 dated 03.5.1993, the land of an extent of about 640 sq.ft. in Survey No.326 was sold for a consideration of Rs.16,000/-. Therefore, the claimants contended that the market rate was more than Rs.20/- per sq.ft. The Tribunal found that there was no contra evidence to discredit Ex.C1. As a matter of fact, the person examined as PW2 by the claimants was none other than the seller under Ex.C1.

6. Despite the fact that the Tribunal found Ex.C1 to be reliable, the Tribunal arrived at the compensation, only at Rs.12.50, on the sole ground that there has to be a deduction of 50% towards development charges. In other words, the Tribunal proceeded on the basis that Rs.25/- per sq.ft. was the correct market value as per Ex.C1 and that 50% had to be deducted towards development charges.

7. In respect of an adjoining land, the Additional District Court, Dharmapuri, fixed compensation at Rs.16.67 per sq.ft., after deducting 1/3rd towards the development charges. In an award passed in LAOP No.19/97 on 24.9.1993, the Land Acquisition

Tribunal went on the basis of the very same document namely Ex.C1 dated 03.5.1993, arrived at the market value at Rs.25/- per sq.ft. and after deducting 1/3rd of the said amount towards development charges fixed the compensation at Rs.16.67 per sq.ft.

8. The said award of the Tribunal in LAOP No.19/97 came to be approved by a learned Judge of this Court in A.S.No.171 of 2014 by a judgment dated 31.8.2010.

9. Therefore, it is clear that in respect of identical lands, on the basis of the very same sale deed, the market value was arrived at by another Tribunal, only after deducting $33\frac{1}{3}$ % towards development charges. Hence, we are of the considered view that the deduction of 50% towards development charges is not proper. If the compensation has been arrived at in respect of an adjoining land which is identical to the land in question in these appeals is Rs.16.67, the respondents in these appeals cannot be paid a different amount of compensation.

10. In view of the above, the appeals filed by the Special Tahsildar are bound to fail. The cross objections filed by the claimants are bound to be allowed.

11. Accordingly, the appeals are dismissed. The cross objections are allowed, directing the appellant to pay compensation to the lands of the respondents by fixing the market value at Rs.16.67 per sq.ft. The other benefits, as ordered by the Land Acquisition Tribunal, shall remain and the appellants shall deposit the amount calculated as per this judgment within a period of eight weeks, together with the usual solatium, interest etc. The Additional Government Pleader is entitled to separate fees in respect of each of these appeals. No costs. Consequently, CMP Nos.449 to 451 of 2007 in A.S.Nos.929 to 931 of 2004 is also dismissed."

5. In view of what has been indicated above, the directions issued by the learned Single Judge, therefore, cannot be said to be suffering from either legal or factual infirmity. We, therefore, find no reason to interfere, as the State does not appear to have tested the matter against the judgment passed in

the appeals referred to herein above.

6. This appeal is, accordingly, consigned to records. No costs. Consequently, C.M.P.No. 25236 of 2019 is closed.

Sd/-

Assistant Registrar (CJ conf)

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Sub Assistant Registrar

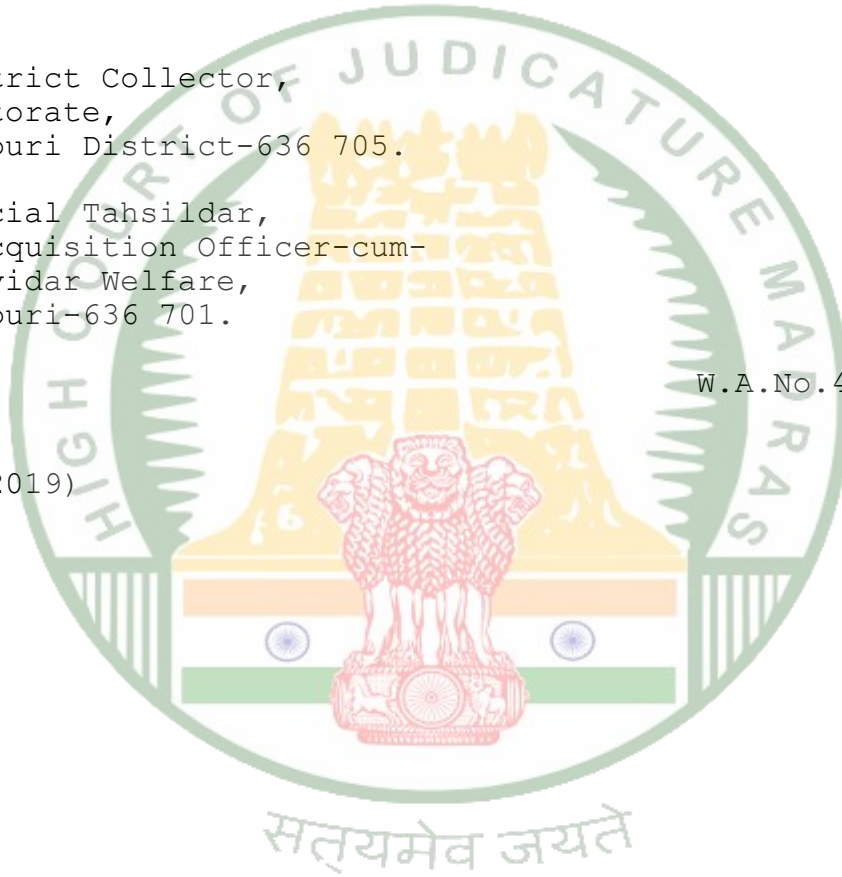
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To:

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2. The Special Tahsildar,
Land Acquisition Officer-cum-
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Dharmapuri-636 701.

W.A.No.4038 of 2019

EV (CO)
CB (17/12/2019)



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