

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

A.S.NO.265 OF 2013

&

M.P.NO.1 OF 2013

The Special Tahsildar,
(Land Acquisition),
Housing Scheme,
Unit-I, Coimbatore.

... Appellant/Referring Officer

Versus

1. V.Prakash
(Represented by his Agent
V.Gopalakrishnan)
S/o.(Late) G.N.Venkitapathy,
114, Appusamy Lay Out,
Red Fields, Coimbatore - 45.
2. V.Suresh ... 1st and 2nd Respondents/Claimants
3. The Executive Engineer,
Tamil Nadu Housing Board,
Coimbatore. ... 3rd Respondent/Beneficiary

Prayer:-

First Appeal has been filed under Section 54 of the Land Acquisition Act against the Judgment and Decree dated 31.12.2004 passed in L.A.O.P.No.2 of 1985, on the file of I Additional Sub Judge, Coimbatore.

For Appellant : Mr.J.Balagopal
Special Government Pleader (AS)

For Respondents: R-1 (No such Addressee)
R-2 (Died)
Mr.B.Vivekavannan for R3

JUDGMENT

Aggrieved over the Judgment and Decree dated 31.12.2004 passed in L.A.O.P.No.2 of 1985 on the file of I Additional Subordinate Judge, Coimbatore, the Referring Officer has preferred this Appeal. During the pendency of L.A.O.P.No.2 of 1985, the sole claimant died and his legal-heirs were brought on record as claimants 2 and 3.

2. Shorn of unnecessary details, it is found that the lands belonging to the respondent as well as the lands belonging to others had been acquired for the purpose of providing housing facilities to the down-trodden and middle class people by the Tamil Nadu Housing Board and in this connection, it is found that Section 4(1) Notification of the Act had come to be published on 05.05.1982 and thereafter following the procedures contemplated under the Act and after conducting enquiry, based on sale deed, dated 16.12.1980, measuring to an extent of 30 cents, sold for Rs.10,500/-, during the relevant period, the Land Acquisition Officer had fixed the market value of the lands acquired at Rs.350/- per cent and accordingly determined the compensation payable to the owners of the acquired lands. The respondents 1 and 2 / claimants 2 and 3 received the award fixed by the Land Acquisition Officer under the protest and resultantly, the reference has been made to the Referral Court under Section 18 of the Act for determining the reasonable and just compensation payable to the respondents.

3 The Referral Court, based on the materials placed on record by the respective parties, determined that the value fixed by the Land Acquisition Officer at Rs.350/- per cent is grossly low and proceeded to hold that the market value of the acquired land is Rs.2,300/- per cent and accordingly, determined the compensation payable to the claimants. Aggrieved over the same, the present first appeals had been preferred by the appellant.

4. Considering the scope of the controversy between the parties lying in a narrow compass, it is found that the following points arise mainly for determination in the appeal:

"(1). Whether the compensation fixed by the referral Court is reasonable and just?

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

(3).To what relief the appellant is entitled to?"

Point No:1

5. It is not in dispute that inclusive of the lands belonging to the respondent, the various lands in the Souri Palayam Village, Coimbatore District, in all measuring 20.91 acres had been acquired for the purpose of providing house sites to the downtrodden and middle class people. The notification under Section 4(1) of the Act with reference to the same had been published on 05.05.1982. Following the same, it is seen that the other procedures had been complied with as contemplated under the Act for assessing the value of the acquired lands. The Land Acquisition Officer had secured some sale transactions preceding the three years of the date of Section 4(1) Notification and of them, further proceeded to rely upon the S.No.285, measuring an extent of 30 cents of land was sold to Rs.10,500/- vide sale deed, dated 16.12.1980 and accordingly basing on the value contained in the abovesaid sale transaction, proceeded to determine the value of the acquired lands at Rs.350/- per cent and accordingly determined the compensation payable to the owners of the acquired lands.

6. Inasmuch as, the respondent had challenged the same, the Reference had been made to the Referral Court for fixing the just compensation.

7. Before the Referral Court, the first claimant has been examined himself as C.W.1 and Exs.C1 to C3 were marked. On the side of the Land Acquisition Officer, R.W.1 was examined and Exs.R1 to R5 were marked.

8. According to the respondent, the lands belonging to him are lying adjacent to Avinashi Road and the National Highways is also lying close to the same and fit for commercial and industrial purpose and not fit for residential purpose and in and around the acquired lands, various industries are functioning and further pleaded that in the near vicinity of the acquired lands, Radhakrishna Mills Limited, P.S.G.College of Technology, P.S.G.Industries, Institute Saravajana Higher Secondary School, Coimbatore Pioneer Mills, Sri Ranga Vilas Ginning, Spinning and Weaving Mills, Krishnammal College, N.D.C.Stop Driving Colloège, Anna Nagar, Chennai Main Road, Central Bank of India - Vinayaga Temple, and further also pleaded that in the near vicinity of the acquired lands, Central Bank of India, Post Office, Police Station. It is further stated

that on the surmise that the land acquisition proceedings were dropped, he agreed to sell the land measuring to an extent of 0.91 acres to one Jeganathan for a sum of Rs.5,45,000/- and executed a sale agreement on 07.04.1981 and therefore prayed for the determination of the value of the acquired lands at Rs.10,000/- per cent and determine the award payable to him.

9. Per contra, the Land Acquisition Officer had urged that only based upon the proper data sale deeds, the value of the acquired lands had been fixed at Rs.350/- per cent and no interference is called for with reference to the award fixed by him.

10. The Referral Court, after taking into consideration the various sale transactions effected during the preceding three years prior to the date of notification, viz., Ex.C1-sale agreement, dated 05.12.1975 pertaining to 6.65 cents sold for Rs.14,258/-, Ex.C2-sale agreement, dated 17.07.1976 pertaining to 8.50 cents sold for Rs.20,750/- and Ex.C3-sale agreement dated 15.07.1978 pertaining to 15 cents sold for Rs.40,000/-, determined that the land covered under the abovesaid sale deeds are identical to the acquired lands in terms of the soil conditions etc., on that basis proceeded to fix the value of the acquired lands at Rs.2,300/- per cent and accordingly, determined the compensation payable to the claimants.

11. The learned Special Government Pleader appearing for the appellant would submit that the Court below has erred in enhancing the compensation exorbitant from Rs.350/- per cent to Rs.2,300/- per cent violating the procedures laid down under the Land Acquisition Act. It is further submitted that the Court below has failed to note that the Land Acquisition Officer has taken a relevant sale deed which is prior to the date of 4(1) notification and fixed the market value as Rs.250/- per cent. The amount awarded as compensation by the Court below is excessive and exorbitant requiring downward revision.

12. The learned counsel appearing for the third respondent would submit that originally the 4(1) notification came to be issued in the year 1977 for construction of house sites to the downtrodden and middle class people. Since some more lands are required for implementation of the same project, the neighbourhood lands i.e., claimants and others lands have been acquired, by issuing notification in the year 1982. The two notifications came to be issued for the same cause, so, the first date of notification i.e., 1977 has taken into consideration by the trial Court for determination of fixation of market rate per cent for the preceding three years prior to the date of notification. Therefore, no warrants of

interference is required in this appeal.

13. Heard the rival submissions and perused the materials placed on record.

14. The contention of the appellant that for determination of the market price, the trial Court should have taken the sale transactions during the preceding three years prior to the date of notification, but the trial Court accepted Exs.C1 to C3 documents which were relate to the years between 1975 and 1978, when 4 (1) Notification of the Act came to be published on 05.05.1982. It is to be noted that the property of the claimants was acquired by 4(1) notification on 05.05.1982. However, initially, the first 4(1) notification came to be issued on 31.08.1977. Since the lands acquired in the year 1977 were not fulfilled the requirements for housing scheme to the purpose for which, the land was acquired, the other notification came to be issued on 05.05.1982. Therefore, the trial Court has rightly accepted Exs.C1 to C3 documents which were relate to the years between 1975 and 1978, since the original notification came to be issued on 1977 itself.

15. According to the appellant that the trial Court, by taking note of the smaller extent of land i.e., Exs.C1 to C3, arrived to determine the higher amount of Rs.2,300/-. I am not able to agree with the submission of the learned counsel for the reason that the trial Court to determine the market value of the land per cent only has taken Exs.C1 to C3 and therefore, the appellant cannot take a stand that larger extent of land should be taken into consideration for determining the market value.

16. Considering the abovesaid factors in toto particularly, when the referral Court has determined the value of the acquired lands based on the potentiality of the lands acquired as well as the other factors and the lie of the lands and the developments in the vicinity or neighbourhood of the acquired lands and when it is further noted that the referral Court had not fixed any exorbitant value and also rightly discarded the data sale deed relied upon by the Land Acquisition Officer as well the sale deed relied upon by the claimant, in all, in my considered opinion, no interference is called for in the determination of the value of the acquired lands as fixed by the referral Court. In the light of the abovesaid discussions, I hold that the compensation fixed by the referral Court is just and reasonable and accordingly, the Point No.1 is answered.

17.Point Nos.2 & 3

For the reasons aforestated, the judgment and decree dated 31.12.2004 passed in L.A.O.P.No.2 of 1985, on the file of I

Additional Subordinate Judge, Coimbatore is confirmed and resultantly, the first appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rns

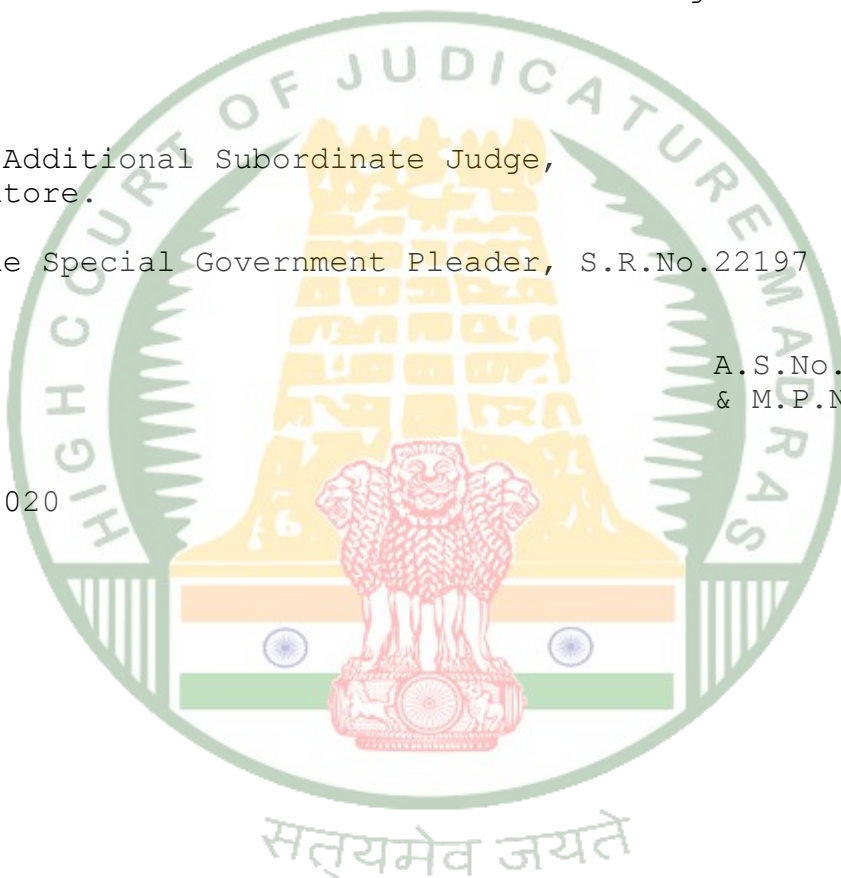
To

1. The I Additional Subordinate Judge,
Coimbatore.

+1cc to the Special Government Pleader, S.R.No.22197

A.S.No.265 of 2013
& M.P.No.1 of 2013

SJ(CO)
CS/22/10/2020



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