

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.01.2020

CORAM:

The Honourable Mr.Justice M.M.SUNDRESH
and

The Honourable Mr.Justice KRISHNAN RAMASAMY

Appeal Suit No.580 of 2013

B.Kumarakrishna Reddiar

... Appellant/Claimant

Vs.

1.Union of India,
Rep., by the Secretary to Government (Rev.),
Government of Pondicherry,
Puducherry.

2.The Sub Collector (Rev.) (South)-cum-
Land Acquisition Officer,
Saram, Puducherry. ... Respondents/Respondents

Appeal suit is preferred under Section 96 read with Order 41 of C.P.C., 1908 against the judgment and decree dated 19.08.2013 in L.A.O.P.No.7 of 2012 passed by the II Additional District Judge, Puducherry.

For Appellant ... Mr.T.R.Rajagopalan, Senior Counsel
for M/s P.Veena Suresh

For Respondents... Mr.A.Gandhiraj,
Government Pleader,
Pondicherry

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal suit has been preferred by the appellant, being the claimant, challenging the award passed by the Reference Court, by which, as against the claim of Rs.150/- per sq.ft., a sum of Rs.120/- awarded by placing reliance on Ex.P4-copy of the guideline register.

2.By way of Notification under Section 4(1) of the Land Acquisition Act, 1894,(hereinafter referred to as "the Act") dated 12.09.2009, the lands to an extent of 2 hectare 56 ares situated in Survey No.43/1B has been acquired by the Director of Adi Dravidar Welfare Department, Puducherry, for the purpose of construction of the houses to the Adi Dravidars. After an

enquiry under Section 5-A of the Act, a declaration has been made on 06.11.2009.

3.The Land Acquisition Officer, after issuing notice to the appellant, who is the owner of the land in Survey No.43/1B in Eripakkam Revenue Village, Bahour Taluk, Pondicherry-Villupuram Main Road, has fixed the valuation at Rs.100/ per sq.ft. This was done by taking into consideration Ex.P1, which is the one of the exemplars. Seeking enhancement for a sum of Rs.150/- per sq.ft., by placing reliance upon Exs.P6 to P9, the appellant fairly sought a reference before the Reference Court. The claimant examined himself as P.W.1 and marked Exs.P1 to P11. On the part of the respondents, R.W.1 has been examined while marking Exs.R1 to R6.

4.The Reference Court was pleased to fix the valuation at Rs.120/- per sq.ft., by taking into account Ex.P4, the adjacent land situated in R.S.Nos.43 and 44 with the following finding.

"On the side of the Land Acquisition Officer, it is argued that prior to 4(1) notification in August 2009 the acquired land and the adjacent lands have been valued by the Government of Pondicherry at square feet rate of Rs.120/- per sq.ft. As per Ex.P4 the adjacent land in R.S.43 and 44 are sold at the rate of Rs.120/- per sq.ft. From the available evidence and records, it is clear that the acquired land is fit for using house construction. So the Government has also fixed the value as per the sq.ft., because the land acquired is house site. The Government has fixed the value at the rate of Rs.100/- per sq.ft. Since the land acquired is near the residential locality and it is near T.V.S. Lucas company and the M.R.F. Company. The value of land fixed by the Government is very low. The petitioner claimed Rs.150/- per sq.ft. For the acquired land. Since the adjacent land are sold at the rate of R.120/- per sq.ft., this Court is inclined to enhance the compensation from Rs.100/- per sq.ft., to Rs.120/- per sq.ft."

5.The learned Senior Counsel appearing for the appellant would submit that the Reference Court has committed an error in not taking into consideration of Exs.P6 to P9. It is nobody's case that these documents are different in terms of extent and the nature while comparing it with the acquired land. These documents were also taken into consideration by the Land Acquisition Officer. Therefore, the settled position of law is

that the Court has to sit in the arm chair of the intending seller and buyer has not been taken note of. In such view of the matter, the appeal will have to be allowed.

6.The learned Government Pleader(Pondicherry) appearing for the respondents submits that though the documents vary from Rs.100/- to Rs.150/-, the Reference Court has fixed at Rs.120/- per sq.ft., which is fair and reasonable. As the relevant materials were taken into consideration, no interference is required.

7.It is nobody's case that Exs.P6 to P9 cannot be taken into consideration for coming to the just compensation payable by fixing the compensation of the acquired land. In all these documents, the valuation has been fixed at Rs.150/- per sq.ft. Even the learned Government Pleader submitted that these documents were also looked into. The Land Acquisition Officer has fixed Rs.100/- per sq.ft. In our considered view, the Reference Court has not followed the correct position of law. When data sale deeds are produced before the Court, the document, which mentioned the higher value will have to be taken into consideration. As stated, Exs.P6 to P9 indicate the valuation at Rs.150/- per sq.ft., all these documents are contemporaneous documents. They are also similar in nature to the acquired land apart from being situated nearby. There is no reason to underestimate these documents. Further more, Ex.P9 is the document, by which the appellant himself has procured a specific land at a sum of Rs.150/- per sq.ft. In such view of the matter, the Reference Court ought to have fixed the aforesaid amount being highest.

8.Accordingly, the appeal suit stands allowed and the judgment and decree of the Reference Court is set aside. Consequently, the compensation has been fixed at Rs.150/- per sq.ft. In other aspects, the judgment of the Reference Court stands confirmed. No costs.

-s/d-

Assistant Registrar

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To

The II Additional District Judge, Puducherry.

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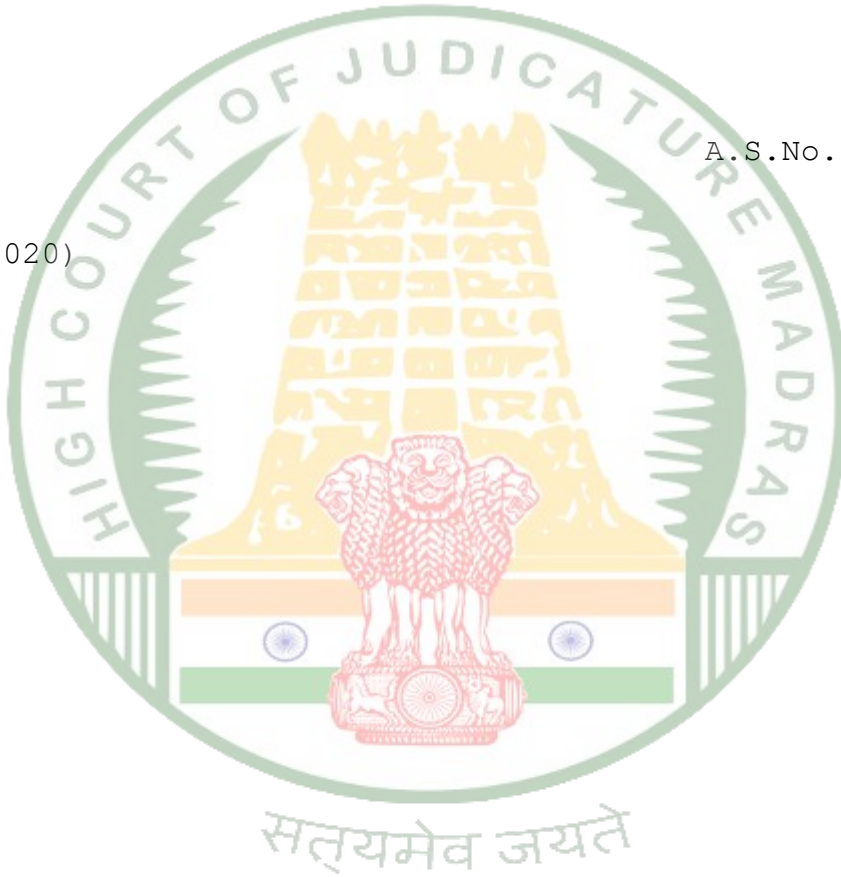
The Section officer
VR Section
High Court, Madras 104.

+1 CC to Ms.P. Veena Suresh, Advocate sr 7094.

+1 CC to The Government Pleader sr 7618.

A.S.No.580 of 2013

MP (CO)
SP (01/09/2020)



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