IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

A.S.NOS.130 AND 165 OF 2003

Neyveli Lignite Corporation Ltd.,
Rep. by its Secretary,
Neyveli-607 801.

... Appellant in both A.S/
2nd Respondent

.Vs.

1.Haja Sheriff (deceased)
S/o.Husain Mohamed

2.Special Tahsidar No.III,
Land Acquisition,
Neyveli.

3.Rameeza Beevi

4.Rahila Banu

5.Jamal

6.Anwar

7.Kajammal @ Kathija Beevi

8.Mubarak Begam

9.Mumtaj begam

10.H.H.Bahadur

... Respondents in
A.S.No.130 of 2003

(RR3 to 10 brought on record as LRs of deceased R1 vide order of Court dated 18.08.2010 made in C.M.P.Nos.1200 to 1202 of 2010)

1. Haja Sheriff (deceased)
S/o.Husain Mohamed

2. Special Tahsidar No.III,
Land Acquisition, Neyveli.

3.Jamal

4.Anwar

5.Rahila Banu

6.Rameeza Beevi

7.Kajammal @ Kathija Beevi

8.Mubarak Begam

9.Mumtaj begam

10.H.H.Bahadur ... Respondents in A.S.No.165 of 2003

(RR3 to 10 brought on record as LRs of deceased R1 vide order of Court dated 29.07.2010 made in C.M.P.Nos.10880 to 10882 of 2006)

Common Prayer: First Appeals filed under Section 54 of the Land Acquisition Act 1894, against the judgment and decree of the learned Sub-ordinate Judge, Vridhachalam dated 29.08.2002 in L.A.O.P.Nos.227 and 228 of 1991.

For Appellant : Mr.N.A.K.Sarma
(In both appeals)

For Respondents : R1-died
(In both appeals) Mr.J.Balagopal
Special Government Pleader for R2
M/s.R.Meenal for RR7 to R10

COMMON JUDGMENT

The appeals have been preferred as against the judgement and decree of the learned Sub-ordinate Judge, Vridhachalam dated 29.08.2002 in L.A.O.P.Nos.227 and 228 of 1991.

2.The requisition body namely the beneficiary of acquisition is the appellant in both the appeals. It is admitted that the land measuring an extent of 7.85.0 hectre in Neyveli Village and another extent of 8.31.0 hectres in the same village, were acquired for expansion of second mines by Neyveli Lignite Corporation limited. Separate notification under 5.4(1) of the land Acquisition Act were published on 29.03.1989. In an award dated 05.03.1990, the land Acquisition Officer, determined the compensation in respect of the lands which were acquired under two different notifications, by award Nos.1 and 2 of 1990 dated 05.03.1990. The land Acquisition Officer, determined the compensation by fixing the market value at the rate of

Rs.74,100/- per hectre. Aggrieved by the amount of compensation fixed by the Land Acquisition Officer, the claimants sought for reference under Section 18 of the Act. The learned Additional Subordinate Judge, Chengalpattu entertained L.A.O.P.Nos.227 and 228 of 1991, as against the award of Land Acquisition Officer fixing the market value in respect of the lands owned by the respondents. The learned Sub-ordinate Judge, Vridhachalam disposed of the both L.A.O.Ps by fixing the market value at the rate of Rs.1,44,075/- per hectre equivalent to Rs.58,000/- per acre. Aggrieved by the quantum of compensation fixed by the learned Subordinate Judge in L.A.O.P. Nos.227 and 228 of 1991 dated 22.08.2002, the above appeals have been filed.

3.The learned counsel for the appellant submitted that the lower Court has committed a grave error in enhancing the compensation exorbitantly by adopting capitalization method, even though, several documents have been produced and the Land Acquisition Officer has fixed the value for the acquired lands based on the contemporaneous data sale deed, which reflects the market value for similar lands. In other words, the learned counsel for the appellant submitted that the data sale deed filed by the appellant and the acquired lands are similar in nature, quality, tharam and fertility and therefore the learned Sub-ordinate Judge, Vridhachalam ought to have held that the compensation fixed by the Land Acquisition officer is just and reasonable. The learned counsel for the appellant further submitted that the lower Court fixed the compensation on the basis of income supposed to have been derived from the lands without any legal basis and without any supporting documentary evidence and further submitted that the lower Court ought to have fixed the compensation based on the contemporaneous sale deed filed by the appellant. Though the appellant have raised several grounds, the learned counsel for the appellant placed his arguments only, by referring to few sale deeds. In Short the only issue raised by the appellant is that compensation cannot be fixed on the basis of capitalization method when comparable sale deeds are available.

4.M/s.R.Meenal, the learned counsel appearing for the respondents however submitted that the learned Principal Subordinate Judge has determined the compensation on the basis of well settled principles and there is no infirmity or illegality in the order passed by the lower Court in L.A.O.P.Nos.227 and 228 of 1991 dated 22.08.2002.

5.This Court accept the submission of the learned counsel for the appellant that the Court should not resort to adopt capitalization method when sale exemplars reflecting the market value for similar lands comparable to the lands acquired are available. The market value for acquired lands can be fixed with reference to comparable sale deeds provided the sale deed in respect of lands which an adjacent and possess similar advantages. The claimants have filed several documents namely Adangal extract and other documents to show that the lands acquired from the claimants have been cultivated by the cash crops. The lands acquired are irrigated dry lands. The regular cultivation by cash crops and income from the lands are proved by the claimants by producing several documents. The lower Court after considering all the documents, fixed the market value by adopting capitalization method. It is to be noted that several documents were filed by the appellant before the lower Court. All the documents are sale exemplars, which were executed at the relevant point of time. The Land Acquisition Officer while passing the award discarded several documents showing higher value on the ground that the document is in respect of smaller extent of land. The lands covered by the land acquisition proceedings are classified as dry land as per the revenue records, though the lands were taken as irrigated dry land for the purpose of valuation. The award passed by the Land Acquisition Officer indicate that there is reference to few sale exemplars. But, there is no reference to any cultivation or income from the land, which are projected by the claimants before the lower Court. Though, the Land Acquisition Officer relied upon 16 sale transactions in the award, it is to be noted that 12 documents were discarded only on the ground that smaller extent of lands are dealt with under these documents. Two other documents were also discarded on the ground that the lands have different Soil and Tharam. One of the sale deed showing higher value was discarded because it was in respect of house sites. Relying upon the sale deed dated 19.12.1988, the Land Acquisition Officer fixed the market value of the land at Rs.74,000/-per hectare.

6.The claimants have pointed out that the lands were under cultivation at the time of acquisition. The claimants have filed several documents to prove that they derived income from the respective lands by doing regular cultivation of cash crops like Sugar cane and Paddy. Though the claimants asked for compensation by projecting a huge amount as income from the acquired lands, the Tribunal adopted a practical approach and arrived at a just compensation by following well settled principles. Since, the income from the crops cultivated in the claimants lands was assessed between 4500 per acre to 70,000/- per acre, adopting 10 as multiplier, the market value for the acquired lands has been determined at Rs.58,330/- per acre or Rs.1,44,077/- per Hector.

7.This Court after going through the findings and all documents relied upon by the lower Court is of the view that the reference Court has arrived at a just compensation. Hence, this

Court has no reason to interfere with the award of quantum determined by the lower Court. It is to be noted that the land was acquired in the year 1989. The learned Additional Subordinate Judge, Chengalpattu entertained L.A.O.P.Nos.227 and 228 of 1991, during the year 1991. Though the reference Court decided the just compensation by judgment and decree dated 29.08.2001, the compensation payable as per the decree of the reference Court is not yet disbursed.

8.The learned counsel appearing for the appellant submitted that the appellant has deposited 50% of the compensation at the time this Court granted stay and that the claimants have also withdrawn the amount. However, the learned counsel appearing for the respondents submitted that no amount was withdrawn sofar, in view of the stay granted by this Court.

9.The appellant acquired and utilized the lands for the purpose of expanding their commercial activities. The claimants are entitled to be paid the just compensation. Though the Land Acquisition Act stood the rest of time the injustice and inadequacy of compensation under the Land Acquisition Act is well recognized by brining the new enactments in 2013 fixing the compensation to enable the land owners to get up to Rs.400/- per cent of the market value for the land and other benefits by way of re-habilitation.

10.Hence, this Court is not inclined to interfere with the judgement and decree of Sub-ordinate Judge, Vridhachalam dated 29.08.2002 in L.A.O.P.Nos.227 and 228 of 1991.

11.Accordingly, the First Appeals are dismissed. No Costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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Copy to
1. The Sub-ordinate Judge, Vridhachalam.
2. The Section officer,
V.R. Section, High Court, Madras

+2cc to Mr.N.Nithia Nandam, Advocate, S.R.No.38715 & 38714
+2cc to M/s.R.Meenal, Advocate, S.R.No.38838 & 38837

A.S.No.130 and 165 of 2003

LN(CO)
CS/31/08/2021