



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

A.S.NOS.548 TO 559 OF 2011

A.S. No.548 of 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. A.Shanthi

... 2nd Respondent/
Claimant

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit filed under Section 54 of the Land Acquisition Act against the judgment and decree of the Additional District Court, (FTC-II) Poonamallee in L.A.O.P. No.363 of 2008 dated 28.02.2011.

A.S.NO.549 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer



.Vs.

1. A.Sakunthala

... 1st Respondent/
Claimant

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.364 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.550 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. K.Usha,

... 1st Respondent/
Claimant

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.368 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.551 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,



Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. S.Mani ... 1st Respondent/
Claimant
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008. ... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.369 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.552 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. C.Sukumaran ... 1st Respondent/
Claimant
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008. ... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made



in L.A.O.P. No.376 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.553 OF 2011:

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The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. Alais Derasa

... 1st Respondent/
Claimant

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.437 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.554 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. R.Mala

... 1st Respondent/
Claimant

2. The Member Secretary,



Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.439 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.555 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. Gowri

... 1st Respondent/
Claimant

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.440 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.556 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer



WEB COPY

.Vs.

1. M.Muthulakshmi

... 1st Respondent/
Claimant

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.442 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.557 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. Vijayambika

... 1st Respondent/
Claimant

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.453 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.



A.S.NO.558 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. Raj ... 1st Respondent/
Claimant
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008. ... 2nd Respondent/
2nd Respondent

Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.455 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

A.S.NO.559 OF 2011:

The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.

... Appellant/
Referring Officer

.Vs.

1. P.Azhagumani ... 1st Respondent/
Claimant
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008. ... 2nd Respondent/
2nd Respondent



Prayer:

Appeal Suit is filed under Section 54 of Land Acquisition Act, and against the judgment and decree dated 28.02.2011, made in L.A.O.P. No.469 of 2008 on the file of the learned Additional District Court, (FTC-II) Poonamallee.

For Appellant : Mr. J.Balagopal
Special Government Pleader

For Respondent -2 : Ms. P.Veena Suresh
Respondent -1: Died

C O M M O N J U D G M E N T

All these appeals are filed against the judgment and decree of the learned Additional District Judge, Fast Track Court II, Poonamallee in a batch of Land Acquisition Original Petitions in L.A.O.P. Nos. 363, 364, 368, 369, 376, 437, 439, 440, 442, 453, 455 & 469 of 2008. All these land acquisition compensation cases arise out of a notification issued under Section 4(1) of the Land Acquisition Act dated 31.10.2003, for acquisition of an extent of 3.95.0 Hectares (9.75 Acres) in Morai Village, Ambattur Taluk, Tiruvallur District for the purpose of formation of Outer Ring Road.

2. Heard the arguments of learned counsel appearing on either side.

3. It is not in dispute that the notification under Section 4(1) of the Act was published on 31.10.2003. By this notification, an extent of about 10 Acres of land comprised in several lands at Moorai Village, Tiruvallur District, was acquired for the purpose of formation of Outer Ring Road from Vandalur to Minjur. Referring to the document of sale dated 24.07.2002, which is in respect of an extent of 15 cents in the same village in Survey No.10/11, the Land Acquisition Officer fixed the market value at the rate of 500 per cent. Aggrieved by the quantum of compensation fixed by Land Acquisition Officer, the land owners filed a petition under Section 18 of the Land Acquisition Act, seeking reference to get just compensation for the lands acquired from them. Accordingly, the reference Court namely the Additional District Court cum Fast Track Court II, Poonamallee, entertained several reference cases. It also admitted that the acquisition for the purpose of formation of Outer Ring Road from Vandalur to Minjur was in respect of several parcels of land. The compensation was fixed by the Land



Acquisition Officer under different awards with reference to different notifications issued under Section 4(1) of the Act. Therefore, several batch of cases have been decided by the reference Court. It is admitted that this Court has also fixed the quantum in a batch of first appeals arising out of the notification dated 06.11.2003. Relying upon the document of sale dated 23.05.2003, which was in respect of the property measuring an extent of 1560 Sq. ft. in Survey No.498/4A, the reference Court enhanced the compensation from Rs.500/- per Cent to Rs.16,500/- per Cent. Challenging the quantum of compensation fixed for the lands belonged to the land owners, the above appeals were preferred by the Special Tahsildar (L.A).

4. Learned Special Government Pleader appearing on behalf of the appellant submits that the reference Court enhanced the market value exorbitantly from Rs.500/- per Cent to Rs.16,500/- per Cent in violation of the procedures prescribed either under the Land Acquisition Act, 1894 or the precedents and principles reiterated by Hon'ble Supreme Court and followed by this Court in several similar cases. Learned Special Government Pleader further submits that the reference Court relied upon a document of sale dated 23.05.2003, which is in respect of smaller extent of 1,560 Sq.ft. in Survey No.498/4A. The learned Special Government Pleader submitted that the selection of the document as exemplar itself is not proper as several other documents in respect of lands which are closer to the acquired lands have been ignored by the reference Court. He further submits that proper deduction ought to have been made on account of the fact that compensation for large extent of lands was sought to be fixed on the basis of sale exemplar which is in respect of small piece of land in a developed area. Learned Special Government Pleader submits that the acquired lands at the time of issuance of notification under Section 4(1) of the Land Acquisition Act were not developed and that they did not have the facilities and advantages that were available to the lands which were the subject matter of the sale exemplar relied upon by the reference Court.

5. Though the learned Special Government Pleader submitted that the lands are not situated in the main road but far away from the main road, this Court is unable to find even an attempt made by the Land Acquisition Officer to prove his statement by producing either documents or witnesses who are competent to speak about the potentiality, advantages and disadvantages of the lands and to compare the acquired lands with the lands which are covered under the document which was relied upon by the lower Court to fix the market value. Perusal of the document namely the sale deed which is marked as Ex.A2 in L.A.O.P. No.363 and batch of cases, shows that the plot of land which is dealt with in this document is found in a layout. The description of



the property with reference to the boundaries clearly indicate that the property is nothing but a house site in an approved or an unapproved layout. Therefore, the learned Special Government Pleader is right in contending that there must be some deduction towards development charges. When the compensation is to be fixed in respect of large extent of lands by referring to sale exemplars of small pieces of land in developed area, this Court and Hon'ble Supreme Court has reiterated that there should be proper deduction and the percentage of deduction should be determined by considering the individual cases and factors which are relevant. This Court has no disagreement with any of the judgments relied upon by the learned Special Government Pleader as well as the learned counsel appearing for the first respondent in all the appeals. However this Court is unable to decide all these appeals purely based on the judgments relied upon by both sides for the reason that a Division Bench of this court in a batch of appeals has confirmed the award of reference Court fixing compensation at the rate of Rs.16,500/- per cent.

6. It is not in dispute that the acquisition was for formation of Outer Ring Road from Vandalur to Minjur and that the lands covered in the notification are in the same village. Since the acquisition was for the formation of Outer Ring Road from Vandalur to Minjur, the acquisition is by issuing several notifications in respect of several parcels of lands acquired in several villages. As far as the notifications which is the subject matter of batch of cases disposed of by Hon'ble Division Bench of this Court dated 31.08.2015 is concerned, it is in respect of the lands in the same village but covered by a different notification which was issued in November 2013. It is quite natural and inevitable to acquire different parcels of lands under different notification for convenience. Though the acquisition is initiated after preparing a plan and the alignment due to administrative reasons, successive notifications or simultaneous notifications were issued. Hence, the Court is expected to take into account the sale statistics and fix as far as possible uniform rate so that there will not be individual prejudices and hardships on account of small delay in issuing notifications in respect of different parcels of land which are for the same purpose.

7. This Court is of the view that the value adopted by Hon'ble Division Bench of this Court in A.S. Nos.574 to 583 of 2011 dated 31.08.2015, can be taken as the fair and just compensation for the lands acquired from the claimants. Learned counsel appearing for the respondents produced the communication sent by the appellant to the Government Pleader in response to the letter received from the learned counsel appearing for the appellant so that the Government Pleader concerned can report to the Lok Adalat for settlement in respect of other cases which



are pending before the reference Court. Referring to the acquisition and the fact that compensation has been fixed at Rs.16,500/- per Cent, in respect of several batch of cases it was suggested that same value can be adopted for settling the dispute in relation to several other pieces of land covered under the same notification by the Land Acquisition Officer by communication dated 23.11.2020. The communication was to the Government Advocate who was engaged to appear for the Government before the reference Court. Since the appellant has agreed to settle the matter through Lok Adalat in respect of several parcels of land covered under the same notification by adopting the value at the rate of Rs.16,500/- per Cent, this Court is of the view that the appellant has taken a policy decision to fix compensation at the rate of Rs.16,500/- per Cent in respect of all other lands covered under the same notification and the appellant cannot canvas to reduce the compensation from Rs.16,500/- in these batch of cases.

8. It is to be noted that the only submission of the learned Special Government Pleader for the reduction of compensation is that the reference Court in the batch of cases which are the subject matter of these appeals have not taken into account the nature and character of the property covered by the sale exemplar and has failed to deduct at least 10% to 20% of value towards development charges. Learned counsel appearing for the first respondent however relied upon several judgments of Hon'ble Supreme Court and submitted that while the acquired lands are in the midst of already developed lands with amenities of roads and other facilities, no deduction is warranted when the value has to be fixed on the basis of a comparable land.

9. Though this Court on the basis of the judgments relied upon by the learned Special Government Pleader agrees that a small deduction is required having regard to the nature of property conveyed in the sale exemplar, the sale deed that is marked as sale exemplar in the present case before the reference Court is dated 23.05.2003. This document is a sale deed in respect of an extent of 1,500 Sq.ft in a layout. The property description with reference to boundaries clearly indicate that it is a house site in a layout. Therefore, this Court agrees that a reduction is required at least considering the extent of land, reserved for road. However, the fact that the sale exemplar is six months prior to the notification issued under Section 4(1) of the Land Acquisition Act, and 10 to 12% increase in price per year towards escalation of price has to be taken. From the evidence it is seen that the acquired lands are part of well developed township and that the lands are surrounded by layouts. The land acquisition proceeding was initiated in the year 2003. The land acquisition officer passed award in the year 2006 fixing just Rs.500/- per cent. After nearly 15 years, the



appellant is now only on the reasonable deduction. In view of the considerable delay in paying just compensation, this Court is not inclined to interfere. This Court having seen that the Land Acquisition Officer namely the appellant has also agreed for settlement of several other cases through Lok Adalat by adopting Rs.16,500/- per Cent as market value for the acquired lands, is not inclined to interfere with the judgment and decree of the reference Court in these batch of cases. Accordingly, this Court confirms the judgment and decree of the Additional District Court, (FTC-II) Poonamallee in L.A.O.P. Nos.363, 364, 368, 369, 376, 437, 439, 440, 442, 453, 455 & 469 of 2008 by approving and fixing the market value at the rate of Rs.16,500/- per Cent.

10. It is brought to the notice of this Court that some of the respondents are no more. However, this Court is unable to confirm the statement about the death of the respondents. It is reported that the appellant is unaware of the deaths of parties. In such circumstance, this Court is not in a position to dispose of any of the appeals as abated. However, it is open to the legal representatives of the deceased respondents to proceed further by filing independent petitions under Order 21 Rule 16 of Civil Procedure Code.

11. These Appeal Suits are dismissed. No costs. Considering the strenuous efforts and time spent by the learned Special Government Pleader in producing various judgments, the learned Special Government Pleader is entitled to separate fees for each appeal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn

To

- 1 The Special Tahsildar, (L.A.)
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 8,
Now Office at Koyembedu wholesale Market Complex,
Chennai - 600 092.



2 The Section Officer,
V.R Section,
High Court,
Madras.

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+1cc to Ms. P.Veena Suresh, Advocate, S.R.No.42031
+1cc to the Special Government Pleader, S.R.No.42314

A.S. Nos. 548 to 559 of 2011

RR (CO)
PM/19/11/2021
PM/06/12/2021