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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

A.S.No.1002 of 2008
and C.M.P.No.1 of 2008

The Secretary,
Neyveli Lignite Corporation Ltd.,
Neyveli - 607 801.

...Appellant/2nd Respondent

Vs

1.V.Ponnusamy

...1st Respondent/Petitioner

2.The Special Tahsildar No.III,
Land Acquisition,
Neyveli - 2.

...2nd Respondent/Respondent

Appeal suit filed under Section 96 of Code of Civil Procedure against the judgment and decree of the learned Additional District Judge, Fast Track Court No.III, Virudhachalam, dated 23.06.2008 passed in L.A.O.P. No.31 of 2003.

For Appellant : Mr. N.A.K.Sarma

For Respondent -1 : No appearance

2 : Mr. J.Balagopal
Special Government Pleader(A.S.)

JUDGMENT

This appeal is preferred as against the judgment and decree of Additional District Judge, Fast Track Court, Virudhachalam in L.A.O.P No.31 of 2013 which was on a reference under Section 18 of Land Acquisition Act. The facts that are necessary for disposal of this appeal are as follows:

An extent of 5.32.5 Hectares of land classified as Natham was taken over under the Land Acquisition Act by notification dated 22.04.1982, for the mining activities of the appellant. After issuing declaration under Section 6 of the Land Acquisition Act, the Land Acquisition Officer passed an award dated 27.05.1988, fixing a sum of Rs.28,500/- towards the building belonged to the first respondent and a market value for the land at Rs.200/- per cent. After receiving the amount under protest, it appears that the first respondent / claimant sought for a reference under Section 18 of Land Acquisition Act.



Thereafter, the matter was referred to Fast Track Court III, Virudhachalam and proceeding was initiated in L.A.O.P. No.31 of 2003. Though the trial Court rejected the claim for enhancement for the building, allowed the claim by enhancing the compensation for the land from Rs.200/- per cent to Rs.1000/- per cent. The extent of land acquired from the first respondent is only about 3.705 cents which is equivalent to 1.5 Ares.

2. Learned counsel for the appellant submitted that the claimant has not produced any documentary evidence to prove the market value of the land at Rs.1000/- per cent. He further submitted that the reference under Section 18 of the Land Acquisition Act, ought not to have been entertained as the letter for reference was given only in the year 1992 whereas, the award was passed in the year 1988. Though the compensation in the present case is for a small extent, learned counsel for the appellant submitted that the quantum will have spiraling effect and there will be several claims under Section 28-A of the Land Acquisition Act by neighbouring land owners for redetermination of compensation.

3. Learned counsel for the appellant has not produced any records by way of additional documents regarding the actual market value. The reference Court pointed out that the compensation in this case had been determined by the Land Acquisition Officer not on the basis of any sale exemplar but on the basis of an internal communication indicating the value of lands classified as Gramanatham. Relying upon the evidence of P.W.1, the Tribunal enhanced the compensation for land from Rs.200/- per cent to Rs.1000/- per cent. The lower Court has considered the entire evidence and determined the market value for the land at Rs.1000/- per cent. Though it is true that no material is produced by the claimant, the lower Court has fixed the compensation by accepting the evidence of P.W.1. The lower Court has given its finding based on appreciation of evidence. This Court has no compelling reason to interfere with the findings accepting the arguments of learned counsel for the appellant.

4. The acquisition proceedings was initiated in the year 1982. The land was acquired for a public purpose and utilised. At the time of acquisition, the claimant was residing in a building put up by him. Though a small amount of compensation alone was given for the building, the Land Acquisition Officer failed to follow the procedure while fixing the market value. No sale exemplar was collected by the Land Acquisition Officer so as to ascertain the market value as on the date of 4(1) notification. In the absence of any evidence, accepting the evidence of claimant, the trial Court determined the market value for the land at Rs.1000/- per cent.



5. This Court is of the view that the market value, as determined by the Tribunal, need not be interfered with particularly having regard to the long delay in settling the amount. As pointed out earlier, the acquisition was commenced in the year 1982 and the award itself was passed in the year 1988. The extent of land is only 3.705 cents and the enhancement in quantum is also very meagre. In such circumstances, interfering with the order of trial Court after this length of time will cause serious prejudice to the respondents. It is also to be noted that the appellant has not raised the question of limitation before the trial court based on facts and materials. It is not in dispute that the quantum fixed by the Land Acquisition Officer was accepted by the land owner under protest. When the land owner has expressed his dissatisfaction over the quantum of compensation, the Land Acquisition Officer is expected to refer the matter under Section 18 of the Land Acquisition Act, after recording the objections. In such circumstances, this Court does not find fault with the Land Acquisition Officer for referring the matter for determination of just compensation under Section 18 of Land Acquisition Act.

6. In result, the Appeal Suit is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Judge,
Fast Track Court No.III, Virudhachalam.
2. The Special Tahsildar No.III,
Land Acquisition, Neyveli - 2.
3. The Section Officer,
VR Section, High Court,
Chennai.

+1cc to M/s.N.Nithianandam, Advocate, S.R.No.34492

A.S. No.1002 of 2008

CNR(CO)

RGA(11/08/2021) (15/09/2021)