

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE **S.S.SUNDAR**

A.S. Nos.970 and 992 of 2004

and C.M.P. No.8077 of 2017

The Special Tahsildar (L.A.),
Maraimalai Nagar Scheme,
Kattangkolathur.

... Appellant in both appeal

Versus

- 1.V.R.Mohanarangam (Deceased)
- 2.The Chief Executive Officer,
Chennai Metropolitan Development Authority,
Egmore, Chennai – 600 008.
- 3.M.Bhuvaneswari
- 4.S.Suseela
- 5.M.Santhana Krishnan
- 6.M.Mohanarangan arul
- 7.M.Karunakaran

... Respondents in both appeal

R2 impleaded as second respondent vide order of Court dated 14.07.2005 made in C.M.P. No.8003 of 2005.

R3 to 7 were brought on record as Legal Representatives of the deceased first respondent vide order of Court dated 07.09.2016 made in C.M.P. No.1116 to 1118 of 2016.

Appeal suit in A.S. No.970 of 2004 filed under Section 54 of Land Acquisition Act against the judgment and decree of the Additional Subordinate Judge, Chengalpattu in L.A.O.P. No.1 of 2000 dated 29.01.2004.

Appeal suit in A.S. No.992 of 2004 filed under Section 54 of Land Acquisition Act against the judgment and decree of the Additional Subordinate Judge, Chengalpattu in L.A.O.P. No.7 of 2000 dated 13.01.2004.

For Appellant : Mr. J.Balagopal
(in both appeals) Special Government Pleader

For Respondent 2 : Mr. Sampath
3-7 : Mr. P.Rajamanickam
(in both appeals)

COMMON JUDGMENT

These two appeals have been preferred by the Land Acquisition Officer, challenging the judgment and decree of Additional Subordinate Court, Chengalpattu, in L.A.O.P. No.1 of 2000 dated 29.01.2004 and in L.A.O.P. No.7 of 2000 dated 13.01.2004.

2. In A.S. No.970 of 2004 an extent of 0.68 acres was acquired from the claimants and in A.S. No.992 of 2004 an extent of 2.20 acres was acquired. Both the lands are situated at Ninnakarai Village in Chengalpattu Taluk. The lands were acquired by a notification issued under Section 4(1) of the Land Acquisition Act, [hereinafter referred as 'Act'] dated 23.10.1974. As per the notification, vast extent of land from Ninaikarai Village was acquired for the purpose of formation of new Satellite Town. The Land Acquisition Officer relying upon a document dated 12.06.1972, determined the compensation by fixing the market value at the rate of Rs.40/- per cent. The claimants sought for reference under Section 18 of the Act. At the instance of respondents in A.S. No.970 of 2004, the learned Additional Subordinate Judge, Chengalpattu, entertained L.A.O.P. No.1 of 2000. Similarly, at the instance of respondents in A.S. No.992 of 2004, the learned Additional Subordinate Judge, Chengalpattu, entertained L.A.O.P. No.7 of 2000. As against the award of Land Acquisition Officer fixing the market value at the rate of Rs.40/- per cent, the reference Court namely the Additional Subordinate Judge, Chengalpattu, determined the compensation by fixing the market value for lands at the rate of Rs.3,000/- per cent.

Aggrieved by the quantum of compensation fixed by the Additional Subordinate Judge in L.A.O.P. Nos.1 and 7 of 2000, the Land Acquisition Officer has preferred the above appeals.

3. Learned Special Government Pleader submitted that the learned Additional Subordinate Judge relied upon the judgment in L.A.O.P. No.1 of 1996 dated 23.08.2002, for the purpose of arriving at the market value for the lands and that the said judgment was in respect of land that was acquired in the neighbouring village. Learned Special Government Pleader further submitted that the compensation at Rs.3,000/- per cent for the land in adjoining village was fixed on the basis of the sale price offered by the State Government to another private entrepreneur in the year 1996. Since the compensation has to be determined on the basis of market value as on the date of the notification, learned Special Government Pleader contended that the judgment relied upon by the Tribunal is not only improper but also contrary to the well settled principles laid down by the Hon'ble Supreme Court particularly in the judgment reported in (2018) 2 SCC 474.

4. Though the learned counsel for the respondents relied upon the judgment of Hon'ble Division Bench of this Court in A.S. No.217 of 2004, wherein this Court accepted the market value at the rate of Rs.3,000/- per cent, learned Special Government Pleader submitted that the compensation awarded by the Principal Sub Court, Chengalpattu, in that proceeding was in respect of Chitamanur Village, Chengalpattu taluk. It was further pointed out that the document relied upon in the said proceeding was relating to the lands given to a private company by negotiation and the value was fixed in the year 1996. It was for the said reason it is contended by the learned Special Government Pleader that the price fixed for selling the land by the Government in the year 1996 cannot be the market value for the lands acquired in the year 1974. The learned Special Government Pleader submitted that the judgment in A.S. No.217 of 2004 cannot be a precedent in respect of acquisition with reference to the lands in Ninaikarai Village. It was further submitted by the learned Special Government Pleader that in respect of the lands acquired in Chitamanur Village, the matter is pending before Hon'ble Supreme Court and that therefore, the quantum has not been finally settled in respect of the lands acquired in Chitamanur Village. The

further submission of the learned Special Government Pleader is that the compensation for the lands in Ninaikarai Village cannot be fixed on the basis of the market value fixed by this Court or the reference Court in respect of a land in a different village.

5. Learned counsel appearing for the respondents however strenuously argued that the market value at the rate of Rs.3000/- per cent was accepted and approved by this Court in several judgments and that therefore, this Court should adopt the same value. It is admitted that for the same purpose for convenience different notifications under Section 4(1) was issued in request of Ninaikarai Village and Chitamanur Village. Learned counsel for the respondents submitted that the properties in Ninaikarai Village and Chitamanur Village are contiguous and that there is no scope for treating the two villages as different for the purpose of arriving at market value as on the date of notification issued under Section 4(1) of the Act. It was further pointed that the land in Ninaikarai Village has more advantages than that of Chintamanur village and the compensation fixed for Ninaikarai village cannot be less than the value fixed for Chintamanur village.

6. This Court has carefully considered the rival submissions on either side. This Court has no difficulty in accepting the arguments of the learned Special Government Pleader relying upon the judgments of Hon'ble Supreme Court in the case of [*Maya Devi Vs. State of Haryana*, reported in (2018) 2 SCC 474].

7. The provisions of the Land Acquisition Act are very clear that compensation for the lands should be determined on the basis of market value of the acquired lands as on the date of notification issued under Section 4(1) of the Act. Hence, learned Special Government Pleader is right in his submission that the compensation cannot be fixed on the basis of the value offered by the Government when the lands were sold to a private company in the year 1996. It is not in dispute that the notification issued under Section 4(1) of the Act, in this case is dated 23.10.1974. Learned counsel for the respondents submitted that the lands acquired under the same notification dated 23.10.1974, were sold to a private company at the rate of Rs.3,000/- per cent. When it is admitted that the property was assigned to the private company in the year 1996, it has to be presumed that

the Government has fixed the value when the property was assigned to the private company in the year 1996. Hence, the contention of the learned counsel for the respondents / claimants that the same value which was offered by the Government in the year 1996 should be adopted for fixing the market value of the land which was acquired in the year 1974 cannot be countenanced. However it cannot also be presumed that the market value for the land in 1996 was just Rs.3,000/- per cent.

8. In this case, the Land Acquisition proceedings were completed by passing an award in the year 1986 fixing the compensation at the rate of Rs.40/- per cent. When the claimants have sought for reference immediately after the award, the matter was entertained by the reference Court in the year 2000 and the matter was disposed of by the reference Court in the year 2004. Thereafter, the matter is now pending before this Court from the year 2004 for another sixteen years. As a result, this Court, after 46 years from the date of notification is enquiring and considering the issue whether the compensation for lands which were acquired in the year 1974 should be Rs.40/- per cent or Rs.3000/- per cent. This position makes this Court a little bit embarrassed while fixing compensation for the lands acquired from

poor owners. The long delay of 46 years cannot be ignored especially having regard to the steep increase in the market value in the area which has now become a township. The lands acquired in this case are also very close to the city. The commercial development after the acquisition though is not relevant, the acquisition giving a false hope to the land owners to get a fair compensation and make them wait for 46 years to get a reasonable compensation is something which was never contemplated by the Act. May be it is due to lack of infrastructure and the problem inherent in our justice delivery system, that has caused great injustice to the litigants. However, this Court has to take into consideration these factors so as to render substantial justice to the parties. Though based on the Law Commission report, the Hon'ble Supreme Court gave directions to State to increase the judges versus population ratio from 15 per 1 million to 50 per million about 3 decades ago, still the old ratio alone is maintained. When the State is also responsible for this, this Court is inclined to make up to some extent the great loss to the land owners by directing the Government to pay compensation to the land owners by fixing the market value as determined by the Hon'ble Division Bench of this Court in A.S. No.217 of 2004 by

judgment dated 07.07.2010, in the case of Special Tahsildar Vs. Ramadoss Naidu & Others.

9. The Hon'ble Supreme Court had occasions to refuse to interfere with the quantum of compensation taking note of the long delay. Though this Court is not inclined to solely rely upon those observations for fixing the just compensation in the present case, this Court, on its own, is of the view that the long delay in payment of compensation has caused great loss to the land owners. With the compensation amount at the rate of Rs.3,000/- per cent coupled with interest at the rate of 15% per annum, the claimants, who have lost their lands in the acquisition in 1974 may not be able to get at least 1/10th of the land they have lost under this acquisition. Therefore, this Court is not inclined to interfere with the award of the Land Acquisition Tribunal fixing compensation at the rate of Rs.3,000/- per cent.

Accordingly, these appeals are dismissed. No costs. Consequently connected miscellaneous petition is closed.

10. Learned Special Government Pleader submitted that in several cases, compensation has been fixed long back in the year 1990 and paid. Based on the judgment of this Court, other land owners may come before

this Court. Having regard to the provisions of the Land Acquisition Act, it is impossible for the claimants to seek further enhancement if their case is disposed of or decided earlier and become final. Even the claim for redetermination cannot be made beyond limitation, based on subsequent judgments of the Land Acquisition Tribunal by way of reference under Section 18 of the Act or on the basis of the judgment in appeal by this Court. However, it is made clear that this judgment cannot be relied upon by anyone to seek redetermination of compensation for the lands acquired under the same notification, as this judgment confirms the quantum for the reasons peculiar to this case.

05.11.2020

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Index: Yes/no

Speaking/Non speaking order

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A.S. Nos. 970 & 992 of 2004

S.S.SUNDAR, J.,

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A.S. Nos.970 and 992 of 2004

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