IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.592 of 2008

1. The Land Acquisition Officer &
   The Special Tahsildar,
   (Adi Dravidar Welfare Department)
   Sankagiri, Salem District. .. Petitioner/ Appellant

Vs.

V.Dhanagopal ... Respondent/ Respondent

PRAYER: Appeal under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub Court, Sankagiri in LAOP.No.33/1995 dated 28.06.2004.

For Appellant : Mr.J.Balagopal
Special Government Pleader(AS)

For Respondent : Mr.P.Jagadeesan

JUDGMENT

The appeal suit on hand is directed against the judgment and decree dated 28.06.2004 passed in LAOP.No.33 of 1995.

2. The facts regarding the acquisition are admitted by the parties to the appeal suit and it is further admitted that the Land Acquisition Officer initially fixed a sum of Rs.7,143/- (Rupees Seven Thousand One Hundred and Forty Three only) per acre. As the fixation was found to be lower than that of the market value, the case was referred under Section 18(1) of the Land Acquisition act and the Sub Court, Sankagiri, conducted a trial in respect of the enhancement proceedings initiated by the claimant. The trial Court considered the documents produced by the claimants, stating that adjacent residential plot was sold for a sum of Rs.1.50/- per sq.ft. The said document was marked as Ex.C1. It is not disputed that Ex.C1 is the land, which is adjacent to the acquired land. Further, it is not disputed that

the adjacent land in Ex.C1 was sold for a sale consideration of Rs.1.50/- per sq. ft.

3. This being the admitted facts, the learned Special Government Pleader appearing on behalf of the appellant made a submission that beyond the documentary value, the trial Court had fixed the rate as Rs.2/- per sq.ft without any basis and even as per the document produced by the claimants, the value of the land is Rs.1.50/- per sq.ft and therefore, there is no reason to enhance the amount to Rs.2/- per sq.ft.

4. The said contention is disputed by the learned counsel for the respondent by stating that it is a pakka residential area and the land acquired is surrounded by many residential buildings and considering the possible escalation, the trial Court fixed a sum of Rs.2/- per sq.ft and there is no infirmity as such. Nearby the acquired area, Schools, Hospitals and other facilities are available and therefore, fixation of Rs.2/- per sq.ft cannot be said to be irregular or excess. Under these circumstances, the learned counsel for the respondent made a submission that the trial Court has considered all these aspects and enhanced the amount and there is no infirmity as such and consequently, the appeal suit is liable to be dismissed.

5. This Court is of the considered opinion that the right of property, which is recognized under the Constitution is to be protected. In acquisition proceedings for implementation of public schemes, undoubtedly, the land losers are put to prejudice.

6. Under these circumstances, the land acquiring authorities must be cautious in fixing the correct market value of the land, which is acquired in order to ensure that the land losers get a fair and just compensation for their property. Further, the just compensation ascertained must be paid to the land losers at the earliest possible and long delay in settling the compensation would also cause prejudice to the land losers. In all circumstances, the Courts are also bound to ensure that just compensation is to be fixed and such compensations are disbursed to the land losers at the earliest possible and without causing any delay.

7. In the present case, the acquisition proceedings were initiated in the year 1973 and Ex.C1 document produced by the claimants is the sale deed registered in the year 1972 and therefore, there is no infirmity as such in respect of considering the document marked by the claimants in Ex.C1. The trial Court has not committed any perversity in respect of accepting the document filed by the claimants Ex.C1. However, going beyond the sale consideration fixed in the Ex.C1 document,

this Court has to consider as an excessive exercise of power which cannot be permitted.

8. The trial Court is bound by the facts, circumstances as well as the documents produced by the respective parties before the trial Court. Admittedly, Ex.C1 document is a sale deed executed with reference to the land situated adjacent to the land. The rate of sale as per Ex.C1 document is Rs.1.50/- per sq.ft. However, the trial Court has fixed Rs.2/- per sq.ft without any basis and on presumptive escalation. Presumptive cost in respect of the acquired land cannot be allowed as the same will lead to many other complications. The Courts cannot presume certain escalations and the cost of the property. Undoubtedly, the Courts are entitled to draw an inference, based on certain facts and circumstances. However, the cost of the land cannot be fixed on presumptive basis and if such presumptive cost is allowed, then it will lead to other complications and sometimes, the same may lead to certain corrupt activities also. Therefore, whenever such exercise is made on presumption, then the reasons recorded must be based on sound legal principles and not otherwise. Undoubtedly, the Courts are empowered to enhance compensation, taking note of the facts and circumstances, documents and other criteria. However, if the Court arrived a conclusion that the compensation is to be fixed over and above the sale consideration fixed in the sale deed, then the reasons must be recorded, which must be based on legal principles and blanket enhancement on presumptive escalation is undoubtedly impermissible.

9. As far as the appeal suit on hand is concerned, it is an admitted fact that Ex.C1 document is a sale deed executed in respect of the adjacent land of the acquired land and the rate per square feet was Rs.1.50/-, then there is no reason whatsoever to enhance the compensation from Rs.1.50/- to Rs.2/-. The trial Court has not recorded any acceptable reason for the purpose of such enhancement. Mere existence of School or Residential house may not be a sound reason for such enhancement and possible escalation as stated in the trial Court judgment is also unacceptable. The possible escalation or falling of market value cannot be presumed by the Courts. Even in such circumstances, all other factors are also to be recorded and in the absence of any such valid reason, such enhancement cannot be approved by the High Court. Under these circumstances, the compensation of Rs.2/- per sq.ft fixed by the trial Court is perverse and not in consonance with the established legal principles. Thus, this Court has to restrict the compensation as per the sale consideration fixed in Ex.C1 document, which is Rs.1.50/- per sq.ft and the same is to be confirmed.

10. This being the factum, the judgment and decree dated

28.06.2004 passed in LAOP.No.33 of 1995 is quashed. The compensation of Rs.1.50/- (One Rupee and Fifty Paisa only) per sq.ft as per the document marked by the claimants in Ex.C1 is to be taken for the purpose of calculating compensation and accordingly, the respondent is entitled for the compensation as well as the other statutory benefits as admissible under the rules. The appellants are directed to calculate the compensation as stated above and disburse the same along with the interest as applicable within a period of three months from the date of receipt of a copy of this judgment.

11. Accordingly, the appeal suit in A.S.No.592 of 2008 stands partly-allowed as the quantum of compensation is modified. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Kak

To

The Sub Court, Sankagiri

+1cc to M/s.P.Jagadeesan, Advocate, Sr.No.9902
+1cc to Special Government Pleader, Sr.No.10961

A.S.No.592 of 2008

AD(CO)
GS(08/07/2020)