

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-02-2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

A.S.Nos.225 & 942 of 2009

AS.No.225 of 2009

1. A.Subramaniam
2. S.Sethumadhavan
3. S.A.Gururajan

Appellants/ Petitioners

vs.

1. The Special Tahsildar (Land Acquisition),
Coimbatore, Revenue Divisional Office,
Coimbatore.

Respondent/Referring Officer

2. The Managing Director,
Tamil Nadu Govt. Transport Corporation,
Coimbatore Division I.

.2nd Respondent/2nd Respondent

3. Rukmaniammal

..3rd Respondent/ Respondent

AS.No.942 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore Division-1) Ltd.,
No.37, Mettupalayam Road,
Coimbatore - 641 043.
Respondent

... Appellant/

1. The Revenue Divisional Officer,
Coimbatore Division,
Coimbatore.

Respondent/Referring Officer

2. A.Subramaniam

.2nd

Respondent/1st Claimant

3. Rukmaniammal

...3rd

Respondent/2nd Claimant

Common Prayer: Appeal under Section 96 of the Code of Civil Procedure, 1908, read with Order 41, Rule 1 of the Code of Civil Procedure, 1908 against the judgment and decree made in L.A.O.P.No.142 of 2000 on the file of I Additional Subordinate Judge's Court, Coimbatore, dated 25.10.2007.

For Appellants :
Mr.C.R.Prasanam (AS No.225/09)

For Respondents : Mr.J.Balagopal
Spl. Govt.Pleader (AS) (for R1)
Mr.T.Chandrasekaran (for R2)
No Appearance (R3)

For Appellant :
Mr.T.Chandrasekaran (AS No.942/09)

For Respondents : Mr.J.Balagopal
Spl. Govt.Pleader (AS) (for R1)
Mr.C.R.Prasanam (for R2)

Exparte in lower court (R3)
सत्यमेव जयते

J U D G M

E N T

Two appeal suits are filed against the judgment and decree dated 25.10.2007 passed in LAOP.No.142 of 2000. AS No.225 of 2009 is filed by the claimant and AS.No.942 of 2009 is filed by the Managing Director of Tamil Nadu State Transport Corporation, Coimbatore Division Limited.

2. The learned counsel appearing on behalf of the appellant in AS.No.225 of 2009 contended that the appeal suit is filed for enhancement of compensation as the Trial Court has committed in granting enhancement in accordance with the

document filed by the claimant in Ex.C3. Ex.C3 is the sale deed dated 03.01.1981, registered prior to the acquisition proceedings and as per the said document, the sale was executed for a consideration of Rs. 4 lakhs per acre. This being the document marked by the claimant before the Trial Court, the Trial Court has enhanced the compensation from Rs.35,000/- to Rs. 1 lakh and the enhancement is improper in view of the reason that, no sufficient cause for such enhancement is provided. In fact, the enhancement was made improperly and contrary to the documents filed by the claimant in Ex.C3.

3. The learned counsel appearing on behalf of the appellant in AS.No.225 of 2009 emphasised that the property situated in a prominent location and now a bus stand has been constructed and is a main road property. The valuable belonging to the appellant was acquired for public purpose and more specifically to construct Bus Stand and under these circumstances, the appellant is entitled for just compensation with reference to the document filed by him in Ex.C3.

4. Relying on the very same document relied upon by the Trial Court, the learned counsel for the appellant in AS.No.225 of 2009 reiterated that the appellant is entitled for a compensation of Rs.4 lakhs per acre, however, the appellant restricted the compensation to Rs.3 lakhs per acre in the ground of appeal. The Trial Court has fixed a via media compensation which is not in consonance with the established principles of law. Thus, the appellant has filed this appeal for further enhancement to Rs.3 lakhks per acre.

5. The appeal in AS.No.942 of 2009 has filed the appeal suit challenging enhancement on the ground that the acquisition proceedings were initiated in the year 1983 and during the relevant point of time, the property was not having any locational advantage. In view of the fact that the property situate in the interior part of the location, the compensation was fixed by the Land Acquisition Officer at that point of time and therefore, the respondent in AS.No.942 of 2009 cannot take advantage of the present day escalation in real estate business.

6. It is further contended that the enhanced amount of compensation had already been deposited before the Trial Court and therefore, enhancement granted by the Trial Court is improper and consequently, the judgment and decree is to be set aside.

7. The learned counsel for the appellant in AS.No.942 of 2009 further states that the Trial Court committed an error in granting interest. The interest portion of the judgment is improper in view of the fact that under Section 23(1)(A) of the

Land Acquisition Act, the claimants are entitled for the interest at the rate of 12% per annum from the date of 4(1) notification till date of taking possession or the date of passing of award, whichever is earlier.

8. In the present case, the possession was taken admittedly on 07.09.1983. This being the factum, the interest is to be calculated and paid to the claimant from the date of notification till the date of taking possession i.e. on 07.09.1983, under Section 23(1)(A) of the Act. With reference to the payment of further interest, it is to be paid with reference to Section 34 of the Act. Accordingly, the claimant is entitled to get further interest by adopting the procedures contemplated under Section 34 of the Land Acquisition Act. As far as the said portion of the judgment is concerned, the Trial Court has fixed it properly. As far as the Section 23(1)(A) is concerned, the Trial Court has committed an error and the same needs to be modified.

9. This Court is of the considered opinion that, perusal of the judgment and decree reveals that, the document marked by the claimant for enhancement i.e. Ex.C3 was not disputed by the parties. The said sale deed Ex.C3 was executed on 03.12.1981, admittedly, prior to the 4(1) notification. Therefore, the Trial Court has rightly relied on the document filed by the claimant Ex.C3. When the Trial Court admitted the document and the sale consideration fixed in the said document Ex.C3, then there is no reason for restricting the enhancement to Rs.1 lakh, rather than considering the enhancement based on the said document in Ex.C3. This Court is of the considered opinion that the claimants are losing their right of property which is a constitutional right. Therefore, the Courts are bound to adopt a liberal approach in the matter of fixing the just compensation, when the claimants are able to produce some documents showing that the adjacent lands are sold for a particular rate. Fixing of just compensation is a paramount importance as the land losers are the victims and no prejudice should be caused to them in the matter of fixation of just compensation.

10. In the present case, it is not disputed that the land was acquired for construction of public bus stand. The property is in prime location and situate adjacent to the main road. This being the factum, this Court is of an opinion that the enhancement has not been adequately made by the Trial Court and the same deserves to be reviewed.

11. The grounds stated in AS.No.942 of 2009, challenging the enhancement made by the Trial Court are neither candid nor convincing. However, the submission of the learned

counsel for the appellant in AS.No.942 of 2009, with reference to grant of interest in accordance with the Section 23(1)(A) deserves to be modified. As far as the AS.No.225 of 2009 is concerned, the same is to be considered for further enhancement as prayed for. This being the factum, the following orders are passed:-

1) The judgment and decree dated 25.10.2007 in LAOP.No.142 of 2000 is modified.

2) The appellant in AS.No.225 of 2009 is entitled for the enhanced compensation of Rs.3 lakhs per acre along with all statutory benefits including solatium and interest as per Section 23(1)(A) read with Section 34 of the Land Acquisition Act.

3) The interest is to be calculated for the enhanced compensation and the same is to be paid to the claimant within a period of four months from the date of receipt of this order. The amount of compensation already withdrawn by the claimant is directed to be adjusted.

12. Accordingly, AS.No.225 of 2009 stands allowed and AS.No.942 of 2009 is modified and partly allowed. No Costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Tahsildar (Land Acquisition),
Coimbatore, Revenue Divisional Office, Coimbatore.

2. The Managing Director,
Tamil Nadu Govt. Transport Corporation,
Coimbatore Division I.

3. The Revenue Divisional Officer,
Coimbatore Division, Coimbatore.

4. The I Additional Subordinate Judge's Court, Coimbatore

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.T.Chandrasekaran , Advocate SR.No. 11275

+1cc to Mr.C.R.Prasannan , Advocate SR.No. 11134

A.S.Nos.225 & 942 of 2009

A.SK(05.02.2021).