



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

A.S. No.704 of 2010
and M.P. No.1 of 2010

The Special Tahsildar (L.A.).,
Housing Scheme,
Hosur.

...1st Respondent/Appellant

Versus

1.Byarappa
2.The Executive Engineer,
Tamil Nadu Housing Board,
Hosur.

..Claimant/ Respondent

...2nd Respondent/Respondent

Appeal suit filed under Section 54 of Land Acquisition Act against the judgment and decree of the learned Subordinate Judge of Hosur in L.A.O.P. No.530/96, dated 24th day of December 1997.

For Appellant : Mr. J.Balagopal
Special Government Pleader

For Respondent -1 : Not ready in notice
2 : No Appearance

JUDGMENT

The above appeal has been preferred as against the judgment and decree in L.A.O.P. No.530 of 1996 dated 24.12.1997 on the file of Sub Court, Hosur.

Brief facts that are necessary for the disposal of this appeal are as follows:

An extent of 0.41.0 Hectares of land in Survey No.853/1A in Sennathur Village in Hosur Taluk was acquired by the state for Housing board from the first respondent in connection with the neighbourhood scheme formulated by the Tamil Nadu Housing Board. The notification under Section 4(1) of the Land Acquisition Act was issued on 11.10.1991. Relying upon the document of sale in respect of an extent of 4.93 acres of agricultural land in Survey Nos.682 & 683 situated at Sennathur Village in Hosur Taluk, the Land Acquisition Officer fixed the market value at the rate of Rs.40,000/- per acre. However, the Tribunal, based



on several documents relied upon by the claimant, the first respondent herein, determined the marked value at the rate of Rs.3,48,467/- per acre. Aggrieved by the same, the above appeal has been preferred.

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2. It is to be noted that the Tribunal passed a common order in several petitions on reference under Section 18 of the Land Acquisition Act. This appeal is only against the award in L.A.O.P. No.530 of 1996.

3. Learned Special Government Pleader appearing on behalf of the appellant submitted that the lower Court has enhanced the compensation from Rs.40,000/- per acre to Rs.3,48,467/- per acre. It is submitted that the lower Court has discarded the sale exemplar in respect of larger extent of lands namely an extent of 4.93 acres. Learned Special Government Pleader then submitted that the lower Court failed to consider that the burden of proof lies on the claimant and that the enhancement is without sufficient evidence. This Court considered the submissions and the grounds raised by the learned Special Government Pleader.

4. It is not in dispute that the land is acquired for housing scheme formulated by the Tamil Nadu State Housing Board. The Land Acquisition Officer has fixed the compensation on the basis of a sale deed dated 21.08.1990, in respect of an extent of 4.93 acres in Survey Nos.682 and 683 of the same village. The acquired lands are located in Survey No.848 to 859. The property which is the subject matter in L.A.O.P. No.530 is located in Survey No.853/1A. The Tribunal, on the appreciation of evidences, came to a conclusion that the lands which are the subject matter of reference is far away from the sale exemplar relied upon by the Land Acquisition Officer. Hence, the conclusion of the Tribunal not to rely upon the sale exemplar relied upon by the Land Acquisition Officer is supported by reason.

5. It is also important to note that the sale deeds relied upon by the claimants are in respect of neighbouring lands which are similar to the lands acquired. The fact that the neighbouring lands have been developed as housing plots is revealed from the sale deeds which are in respect of neighbouring lands. The sale deeds relied upon by the claimants are in respect of small plots in layouts indicating that the property has been developed as housing sites and therefore, the Tribunal has no other option but to rely upon the sale exemplars pertaining to the lands which are located in the nearby vicinity. While determining the market value for the lands acquired, the Court is expected to consider the documents which are pertaining to land of similar nature and character.



6. The lands were acquired for development of lands by the Tamil Nadu State Housing Board. The developed lands have been chosen by the Tamil Nadu State Housing Board for convenience. In those circumstance, it is unavoidable to consider only the documents of sale exemplars of neighbouring lands which are of course developed as housing sites. Considering the fact that the documents relied upon by the claimants are just adjoining the lands which are acquired from the claimants, this Court, has no reason to interfere with the conclusion of the lower Court accepting the sale exemplars relied by the land owners. The lower Court relied upon Ex.P4 dated 22.04.1991. The notification under Section 4(1) of the Land Acquisition Act is dated 11.10.1991 and therefore, the genuineness of the transaction is not in issue. Having regard to the location and character of the lands which is the subject matter of sale exemplar relied upon by the lower Court, this Court approve the conclusion reached by the Tribunal to rely upon the document Ex. P.4. Since the Sale exemplars are in respect of smaller extent indicating development as House sites, the reference Court has deducted 1/3rd of the market value shown in the document Ex.P.4. This is proper.

7. The lower Court has considered the evidence of several claimants who are the land owners whose lands have been acquired by the appellant for the development of land by Tamil Nadu Housing Board. Though the lands were acquired about 20 years back only a small amount at the rate of Rs.40,000/- per acre was awarded by the Land Acquisition Officer. Even though the enhancement was by judgment and decree dated 24.12.1997, the appeal was numbered in the year 2010 and this Court has taken another ten years to dispose of these appeals. Since there is long delay in the legal process, this Court has another reason while refraining from interfering with judgments of lower Court.

8. As a result this Appeal Suit is dismissed as devoid of any merits. No costs. Consequently, connected miscellaneous petition is closed. The Registry is directed to send a copy of this order to the first respondent.

Sd/-

Assistant Registrar(cs I)

//True Copy//

Sub Assistant Registrar

bkn



To

1. The Special Tahsildar (L.A.)..,
Housing Scheme,
Hosur.

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+1 cc to Government Pleader(AS) Sr.No. 37630

A.S. No.704 of 2010

(CO)

A.SK(27.09.2021)