

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

A.S.Nos.56 to 68 of 2018
and C.M.P.Nos.1124, 1126, 1128, 1130, 1132, 1134, 1136, 1138,
1140, 1142, 1144, 1146 and 1148 of 2018
& CMP.16965/2019

A.S.No.56 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore. ... Appellant/2nd Respondent

Vs

1.S.Ekambaram
2.S.Duraikannu ... Respondents 1&2/Claimants
3.The Special Tahsildar (Land Acquisition),
N.M.T.P.P. Unit II,
Ennore, Chennai. ... 3rd Respondents/1st Respondent

A.S.No.57 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore. ... Appellant/2nd Respondent

Vs.

1.Rathinammal(died) ... Respondent No.1/Claimant
2.The Special Tahsildar(Land Acquisition),
N.M.T.P.P.Unit II,
Ennore, Chennai. ... 2nd Respondent/1st Respondent
3.Dasarathan
4.Padmanaban
5.Ravi ... Respondents 3 to 5/Lrs of Claimant
(R3 to R5 brought on record as Lrs of deceased R1 vide order of
the court dt 25.07.2019 and made in CMP.No.13750/19 in

A.S.No.57/2018)

A.S.No.58 of 2018:

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore.

...Appellant/2nd Respondent

Vs.

1.Ellammal

...1st Respondent/Claimant

2.The Special Tahsildar(Land Acquisition)
N.M.T.P.P.Unit II,
Ennore, Chennai

...2nd Respondent/1st Respondent

A.S.NO.59 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore.

...Appellant/2nd Respondent

Vs.

1.Rajendiran(died)

...Respondent No.1/Claimant

2.The Special Tahsildar(Land Acquisition)
N.M.T.P.P.Unit II,
Ennore, Chennai

...2nd Respondent/1st Respondent

3.Lalitha

4.R.Raj

5.R.Mohan

6.R.Nanthitha

...Respondents 3 to 6/LRs of Claimant

(R3 to R6 brought on record as Lrs of the deceased R1 vide order of this court dt:25/07/19 made in CMP.13749/19 in AS.No.59 of 2018)

A.S.No.60 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore.

...Appellant/2nd Respondent

Vs.

Ranganatha Reddiar(died)

1.Kabali Reddiar(died)

2.Baby Ammal

3.R.Chokalingam ...Respondents 2&3/Claimants 3&4

4.The Special Tahsildar(Land Acquisition),

N.M.T.P.P.Unit Ii,

Ennore, Chennai.

...4th Respondent/1st Respondent

5.Sekar

6.Uma

7.Selvi

...Respondents 5 to 7/Lrs of 1st Claimant
(R5 to R7 brought on record as Lrs of deceased R1 vide order of
this court dated 25.07.2019 made in CMP.13736 of 2019 in AS 60
of 2018)

A.S.No.61 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore.

...Appellant/2nd Respondent

Vs.

1.Rangan(died) ...1st Respondent/Claimant

2.The Special Tahsildar(Land Acquisition),

N.M.T.P.P.Unit II,

Ennore, Chennai.

...2nd Respondent/1st Respondent

3.Malliga

4.R.Janarthanan

5.Seethapathy

6.Chitra

....Respondents 3 to 6/Lrs of the Claimant
(R3 to R6 brought on record as Lrs of deceased R1 vide order of
this court dated 25.07.2019 made in CMP.No.13727 of 2019 in
AS.60 of 2018)

A.S.No.62 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore.

...Appellant/2nd Respondent

Vs.

1.Dilli ...1st Respondent/Claimant

2.The Special Tahsildar(Land Acquisition),
N.M.T.P.P.Unit II,
Ennore, Chennai. ...2nd Respondent/1st Respondent

A.S.No.63 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore. ...Appellant/2nd Respondent

Vs.

1.M.Bhoopathy ...1st Respondent/Claimant

2.The Special Tahsildar(Land Acquisition),
N.M.T.P.P Unit II,
Ennore, Chennai. ...2nd Respondent/1st Respondent

A.S.No.64 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore. ...Appellant/2nd Respondent

Vs.

1.Shanmuga Reddy(died)

2.The Special Tahsildar(Land Acquisition),
N.M.T.P.P Unit II,
Ennore, Chennai. ...2nd Respondent/1st Respondent

3.Sarojammal

4.Rajendran ...Respondents 3&4/Lrs of the Claimant
(R3 & R4 brought on record as Lrs of deceased R1 vide order of
this court dated 25.07.2019 made in CMP.13724 of 2019 in AS.64
of 2018)

A.S.No.65 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore. ...Appellant/2nd Respondent

Vs.

1. Shanmugam (died) ...1st Respondent/Claimant

2. The Special Tahsildar (Land Acquisition),
N.M.T.P.P Unit II,
Ennore, Chennai. ...2nd Respondent/1st Respondent

3. Sarojammal

4. Rajendran ...Respondents 3&4/Lrs of the Claimant
(R3 & R4 brought on record as Lrs of deceased R1 vide order of
this court dated 25.07.2019 made in CMP.No.13730 of 2019 in
AS.65 of 2018)

A.S.No.66 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore. ...Appellant/2nd Respondent

Vs.

1. O.N. Sambanda Reddiar

2. S. Masilamani

3. S. Saravanan

4. s. Kotteeswaran ...Respondents 1 to 4/Claimants 1 to 4

5. The Special Tahsildar (Land Acquisition),
N.M.T.P.P. Unit II,
Ennore, Chennai. ...5th Respondent/1st Respondent

A.S.No.67 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore. ...Appellant/2nd Respondent

Vs.

Ranganathan Reddy (died)

1. Baby Ammal

2. Chokalingam ...Respondents 1&2/Claimants 2&3

3.The Special Tahsildar(Land Acquisition),
N.M.T.P.P Unit II,
Ennore, Chennai.

...3rd Respondent/1st Respondent

A.S.No.68 of 2018

The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board,
Ennore.

...Appellant/2nd Respondent

Vs.

1.K.Shanmugam

...1st Respondent/Claimant

2.The Special Tahsildar(Land Acquisition),
N.M.T.P.P Unit II,
Ennore, Chennai.

...2nd Respondent/1st Respondent

First Appeal filed under Section 54 of the Land Acquisition Act against the judgment and decree dated 10.01.2014 in L.A.O.P.No.2289, 2295, 2297, 2303, 2306, 2308, 2309, 2314, 2315, 2316, 2317, 2319 & 2329 of 1998 respectively on the file of the IV Additional District Judge, Ponneri.

For Appellant ... Mr.V.Viswanathan
in all the appeals

For Respondents.. Mr.J.Balagopal,
Spl. Govt. Pleader
for R3 in A.S.Nos.56/18
R2 in A.S.No.57/18, R2 in
AS.58/18,R2 in AS.59/18, R2 in
AS.61/18, R2 in AS
63/18, R2 in AS.64/18, R2 in
AS.65/18, R5 in 66/18, R3 in
AS.67/2018, R2 in 68 of 2018

and

Mr.L.Chandrakumar
for Mr.E.Booshanam
for R3 to R5 in A.S.No.57 of 2018
for R3 to R6 in A.S.No.59 of 2018
for R2,3& R5 in A.S.No.60 of 2018
for R3 to R6 in A.S.No.61 of 2018
for R3 to R4 in A.S.No.64 of 2018
for R3 to R4 in A.S.No.65 of 2018

for R2 to R4 in A.S.No.66 of 2018
for R1 & R2 in A.S.No.67 of 2018
for R1 in AS.68/2018

No appearance - R1 & R2
in A.S.No.56 of 2018
R1 in A.S.Nos.58 of 2018
R1 in AS.62/18, R1 in AS.63/18
R1 in AS.66/18.

COMMON JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

All these appeals arise out of the different awards passed by the Reference Court pertaining to the same acquisition. As the issues are similar, with particular reference to the valuation fixed by the Land Acquisition Officer as against the document relied upon by the claimants, we deem it appropriate to dispose of the appeals by the common judgment.

2.A total extent of 42.33.5 hectares of land corresponding to 104 acres situated in Voyalur Village, Ponneri Taluk, Thiruvallur District have been acquired for the purpose of formation of North Thermal Power Project. Section 4(1) Notification was issued on the following dates: 01.03.1990, 06.03.1990, 19.02.1990 and 06.03.1990. The awards have been passed in Award Nos.1/91-92A, 2/91-92A, 3/91-92A and 4/92-A dated 28.02.1992, 28.02.1992, 31.03.1992 and 29.05.1992 respectively.

3.Pursuant to the aforesaid awards, notices were issued to the erstwhile land owners. The Land Acquisition Officer took into consideration the lands situated in Survey No.1563 in Document No.4510 dated 21.11.1989 for an extent of 0.75 acres. This land obviously comes within the acquired lands. Aggrieved over the fixation of the aforesaid value, the claimants sought for reference. Before the Reference Court, the claimants examined themselves as C.W.1 in the respective petitions and marked Exs.C1 and C2. Ex.C1 is the sale deed dated 14.06.1988 in Document No.2304 of 1988 in Survey No.1255. The other document has been filed in Ex.C2 in Document No.3915 of 1988 dated 17.10.1988. This property is situated in Survey No.798/1A. The extent of land involved in Exs.C1 and C2 is 0.04 1/2 cents and 0.04 3/4 cents respectively. Thus, the valuation under Ex.C1

comes to Rs.2,667/- per cent and the valuation under Ex.C2 comes to Rs.2,737/- per cent. As the valuation under Ex.C2 is higher, the same is taken into consideration. Aggrieved over the fixation of value made by the Reference Court, the present appeals have been filed by the beneficiary.

4.Learned Special Government Pleader appearing for the appellant submits that the evidence of R.W.1 has not been taken into consideration properly and so also Ex.R1 dated 09.12.1986. We may note that before the Reference Court, on the side of the respondents therein, the first respondent therein was examined as R.W.1 and marked Ex.R1 which is a copy of the sale deed dated 09.12.1986. The sale deed in Document No.4510 of 1989 forms the basis of the award passed by the Land Acquisition Officer.

5.Learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the Special Tahsildar submitted that the Reference Court committed an error in taking into consideration Exs.C1 and C2. Ex.R1 forms part of the acquired lands. Exs.C1 and C2 are situated far away from the acquired lands. They also relied on the sketch produced before this Court, though not marked before the Reference Court to substantiate Exs.C1 and C2 are situated far away from the acquired lands. It is also their submission that even assuming Exs. C1 and C2 to be taken into consideration, no deduction has been made. The Reference Court ought not to have considered Exs.C1 and C2. Even otherwise, inasmuch as Ex.R1 forms part of the acquired lands and the nature of land is also an agricultural land as it is the same as that of the acquired land. Therefore, looking from any perspective, the Awards passed by the Reference Court cannot be sustained.

6.Learned counsel appearing for the claimants submitted that the Reference Court rightly adopted the procedure. When the documents are produced before the Reference Court, it has to consider the document which fetches the higher value. The Court has to sit in the armchair of the intending seller and purchaser. The sketch produced before this Court in the absence of being marked cannot be looked into. The Reference Court considered the relevant materials and passed the awards. In fact, finding has been given to the effect that master plan has not been produced before the Court and therefore, the award has to be passed with the available evidence which are both oral and documentary. Even assuming adequate adjudication is made for reliance upon Exs.C1 and C2, the amount fixed by the Land

Acquisition Officer is too low. He has taken into consideration Ex.R1 which fetches the very low value. No addition has been given but for the document relied upon in the year 1989 for the acquisition made in the year 1990. Thus, the appeals will have to be dismissed.

7.Two factors are very clear. One is the situation of the land in the document marked under Ex.R1 as against Exs.C1 and C2. Second is that the lands involved in Exs. C1 and C2 are not agricultural lands but plots and that too for a very small extent of 0.04 1/2 cents and 0.04 3/4 cents respectively. However, the Reference Court was not in a position to give a clear finding with respect to the location of the lands mentioned in Exs.C1 and C2. It appears that the Land Acquisition Officer took into consideration the lands which fetched the very low value. We can also take judicial notice of the fact that one cannot go by the amount mentioned in the registration of the document as against the market value. Obviously, the Reference Court did not adopt any deduction while relying upon Exs.C1 and C2.

8.Considering the above, we are of the view that we can safely fix the valuation at Rs.1,500/- per cent. We are conscious of the fact that the lands have been acquired as agricultural lands. However, in the absence of any material to show and prove the actual extent between the acquired land and the lands mentioned under Exs.C1 and C2 we cannot reject them outright, though the land mentioned under Ex.R1 is situated within the acquired land apart from being agricultural land. Therefore, we are of the view that an element of guess work is required. While, the Land Acquisition Officer fixed a very low amount while ignoring the data sale deed for higher valuation, the Reference Court took into consideration the valuation fixed for the lands, which are of very less extent and they not being agricultural lands, obviously situated far away from the acquired lands.

9.In such view of the matter, we are fixing the valuation of the lands acquired at Rs.1,500/- per cent. We make it clear that the claimants are entitled for statutory benefits under the law including solatium and interest. Needless to state that entitlement would be as per the order to be passed in review by the Reference Court.

10.The appeals are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

11.The learned Special Government Pleader is entitled to

separate fees for each of these appeals.

12.C.M.P.No.16965 of 2019 in A.S.No.66 of 2018 has been filed by the petitioners inter alia alleging that they being the legal heirs along with others of the deceased person, they have been completely omitted. Learned counsel further submitted that the petitioners are the daughters of the deceased and ignoring them, the sons got themselves impleaded and got the award.

13.Learned counsel appearing for the claimants submitted that such an issue cannot be adjudicated upon in this proceedings.

14.Considering the submissions made, we are of the view that it is a matter to be considered by way of reference under Section 30 of the Land Acquisition Act, 1890. Therefore, while fixing the valuation in this batch of appeals, insofar as the appeal in A.S.No.66 of 2018 is concerned, the matter shall be referred by the Special Tahsildar (Land Acquisition), N.M.T.P.P. Unit II, Ennore, Chennai under Section 30 of the Land Acquisition Act, 1890. On such reference, the Reference Court shall determine the question of entitlement of the petitioners in C.M.P.No.16965 of 2019 in A.S.No.66 of 2018 against the original claimant. Appropriate orders will have to be passed by the Reference Court within a period of three months from the date of reference. The Special Tahsildar (Land Acquisition), N.M.T.P.P. Unit II, Ennore, Chennai is directed to make a reference within a period of six weeks from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar (ADI-MDU)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

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To

1.The IV Additional District Judge,
Ponneri.

2.The Special Tahsildar (Land Acquisition),
N.M.T.P.P. Unit II,
Ennore, Chennai.

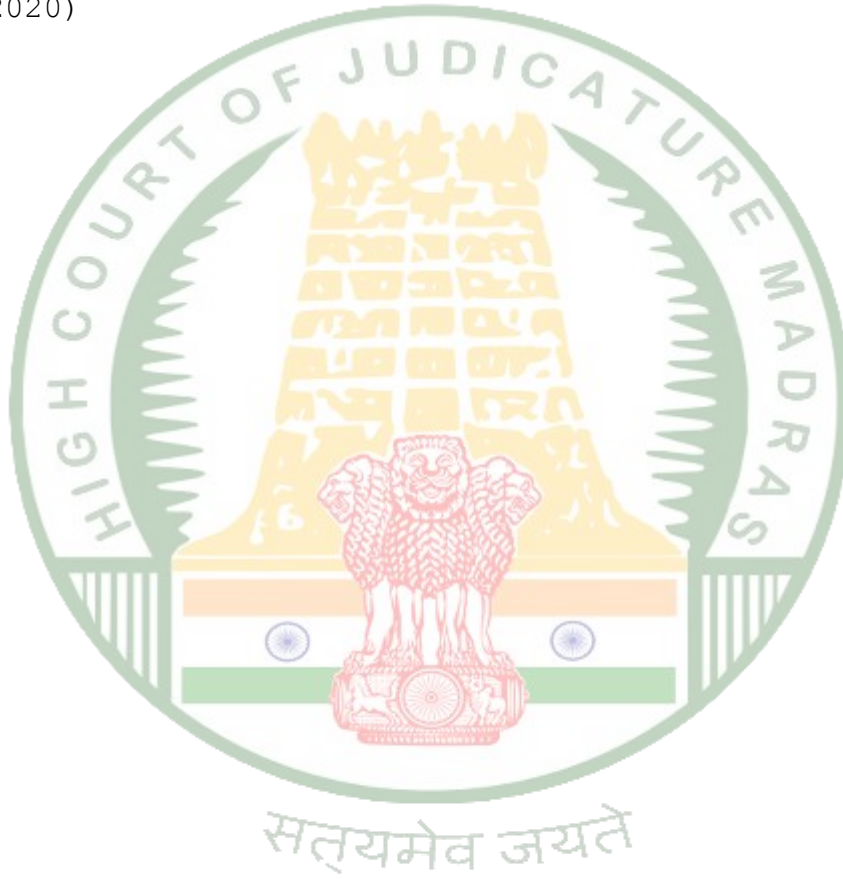
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3.The Superintending Engineer,
North Madras Thermal Power Project,
Tamil Nadu Electricity Board, Ennore.

+1cc to Mr.V.Viswanathan, Advocate SR.16639
+1cc to Mr.R.Prabhavathy, Advocate SR.16965
+13 ccs to Mr.E.Booshanam, Advocate SR.16947

A.S.No.56 to 68 of 2018

TM(CO)
CB(06/10/2020)



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