

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.676 of 2017

C.M.P.No.21356 of 2017

The Special Tahsildar  
(Adi Dravidar Welfare)  
Vellore District.

..Appellant/Referring Officer

Vs.

Zahiruddin(Late)  
1.Noorulla  
2.Anvaruudin  
3.Badruudin

..Respondents/Claimants

Prayer : First Appeal filed against the Judgment & Decree dated 10.03.2016 passed in L.A.O.P.No.965 of 2013 on the file of the learned Special Sub-Ordinate Judge, Vellore.

For Petitioner : Mr.J.Balagopal  
Special Government Pleader

For Respondent : Mr.T.Dhanyakumar  
for RR1 to 3

ORDER

The appeal suit is filed against the Judgment and Decree passed in L.A.O.P.No.965 of 2013 dated 10.03.2016, on the file of the Special Sub-ordinate Judge, Vellore.

2. The learned Special Government Pleader appearing on behalf of the appellant mainly contended that the enhancement granted by the trial Court is ex-orbitant and not in commensuration with the market value prevailing in that locality, during the relevant point of time. The learned Special Government Pleader mainly contended that the trial Court relied on Ex.C3 document, which is a sale deed, relates to a smaller extent of land. Therefore, such a value cannot be considered for the purpose of enhancement from Rs.21,714/- per acre to Rs.4,34,000/- per acre. Such an enhancement granted by the Trial Court by relying on a sale deed, for a smaller extent of land, is untenable. It is further contended that the development charges applicable, as per the judgment of the Hon'ble Supreme

Court of India, has not been done in the present case and the development charges are also to be deducted.

3. The learned Special Government Pleader relied on deposition of C.W.2, one Mr.Manickam son of Mr.Sunderasan deposed that during the relevant point of time, the market value prevailing in that locality was Rs.5/- per square feet. Even that value is considered, the enhancement would be approximately at Rs.2,18,000/- per acre. Thus, in any event, the enhancement made by the trial Court deserves to be interfered with.

4. The learned counsel for the respondents/claimants disputed the said contention by stating that the property acquired is a valuable property situate in the Vellore-Bangalore National Highways Road and surrounded by house sites. The witness/Mr.Manickam, in his deposition, also admitted that acquired lands are surrounded by house sites and many houses are also constructed, even at that point of time. Therefore, the trial Court has taken all these aspects into consideration and decided to rely on Ex.C3 document, wherein the market value was fixed at Rs.4,34,000/- per acre.

5. This Court is of the considered opinion that the property right being a constitutional right, a liberal approach is required in the matter of fixation of just compensation. Liberal approach does not mean that enhancement is to be granted without reference of any document. If the true market value is reflected, the document can be taken into account for the purpose of fixing the just compensation. Therefore, the fact regarding the documents placed before the Court either by the claimants or by the land Acquisition Officer as well as the depositions made by the witnesses are to be considered for fixing just compensation.

6. In respect of present appeal suit, the trial Court considered Ex.C3 document marked by the claimants, wherein the market value was fixed at Rs.10/- per square feet. Accordingly, Rs.4,34,000/- would be the market value per acre. The other documents also reflect the same market price and all those documents were also considered by the trial Court. Beyond the documents, the trial Court relied on the deposition of Mr.Manickam, son of Mr.Surendhar, who in turn, explained about the acquired lands and the market value prevailing in that locality. The deposition enumerates that the acquired land is surrounded by house sites and certain houses were also already constructed. This being the facts and circumstances considered by the trial Court, this Court do not find any perversity or infirmity as such regarding the enhancement made and the

enhancement is granted, based on the documents as well as based on the deposition of witnesses.

7. However, the development charges are to be deducted as per the judgment of the Hon'ble Supreme Court of India. The trial Court has not deducted the development charges and therefore, the decree is to be modified to that extent alone. Accordingly, the Judgment and Decree dated 10.03.2016 passed in L.A.O.P.No.965 of 2013 is confirmed, with reference to enhancement of compensation and in respect of development charges, the appellant is directed to deduct 33% of development charges from the said enhanced compensation. The respondents/claimants are entitled for all other statutory benefits along with interest as per law. The appellant is directed to calculate the compensation as stated above and settle the same within a period of three months from the date of receipt of a copy of this judgment.

8. Accordingly, the first appeal stands allowed in part. No costs. Consequently, connected miscellaneous petition stands closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ssb

To

1.The Special Sub-Ordinate Judge, Vellore.

2.The Section Officer

VR Section

High Court Chennai

+1 cc to Mr.T.Dhanyakumar Advocate sr16948

A.S.No.676 of 2017

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