



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: **21.12.2020**

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

A.S. (MD)No.103 of 2007

1.A.Rathinasabapathy [died],

2.Jeyalakshmi Kuppusamy

3.Sundaram Arunachala Gounder

4.K.A.Siva Gnana Sundari Ravichandran

[Appellants 2 to 4 are brought on record
as Legal Representatives of the deceased
sole appellant, vide Court order dated
09.09.2020, made in

C.M.P.(MD)Nos.4506 to 4508 of 2018] : Appellants/Claimant
vs.

1.The Special Tasildhar [Land Acquisition],
Karur-Dindigul Railway Line Expansion,
Railway Lines Unit No.3,
Dindigul.

2.The Southern Railway,
represented by its Executive Engineer,
(construction), Madurai. : Respondents/Respondent

PRAYER :- Appeal is filed under Section 54 of the Land Acquisition Act, 1894, against the judgment and decree of the Court of the Additional District and Sessions Judge (Fast Track Court), Dindigul, in L.A.O.P.No.14 of 1989, dated 28.02.2003.

For Appellants : Mr.V.Raghavachari
For Respondent No.1: Mr.J.Gunaseelan Muthiah,
Additional Government Pleader
For Respondent No.2: Mr.A.Haja Mohideen

JUDGMENT

The first respondent had issued a notification under Section 4(1) of the Land Acquisition Act, 1894, on 06.02.1985 for the purpose of acquiring land for Karur - Dindigul Broadgauge conversion. The Land Acquisition Officer fixed the compensation at Rs.4.50 per square foot. Aggrieved over the same, the first appellant/claimant [since deceased] has raised objections, which was referred to the learned Additional District and Sessions Judge, Dindigul, under Section 18 of the Land Acquisition Act, 1894. Before the Tribunal, the claimant has examined himself as C.W.1 and one Radhabai was examined as C.W.2 and marked Exs.C.1 to C.5. On the side of the respondents, R.W.1 was examined and Exs.R.1 to R.5 were marked. The Tribunal, after considering all the data documents and also Exs.C.2 and C.3, had arrived at a conclusion that the value of



the property is Rs.9.50 per square foot. Ex.C.2 is the property situated in the adjacent Survey No.146/3, wherein 2400 square feet was sold for Rs.21,600/- on 03.03.1985. Vide another sale transaction in the same survey number, 2400 square feet was sold for Rs.23,000/- on 13.10.1985. The claimant has let in evidence that the acquired land situate within Dindigul Municipality and surrounded by residential colonies. According to him, it is a potential land and market value should have been fixed at Rs.30/- per square foot. On the other hand, the Tribunal, relying on Exs.C.2 and C.3, fixed the market value at Rs.6/- per square foot. Aggrieved over the same, the appellants are before this Court by way of this appeal.

2. I have heard the submissions on either side.

3. From the perusal of the materials placed before this Court, it is seen that the property of the appellants situate in Survey No.147/2A. Exs.C.2 and C.3 situate in Survey No.146/3. It is not in dispute that the entire property is surrounded by residential colonies and well developed area. Even though the Tribunal has found the factual aspects to be true, had fixed the market value random at Rs.6/- per square foot without assigning specific reasons.

4. This Court, in very many cases, has held that the guideline value mentioned in the sale documents is not an indicator of the market value and it will be much more than the guideline value. Even though the claimant claims Rs.30/- per square foot, he has not produced any evidence to show that the acquired property fetches that much of value. However, Ex.C.3 clearly shows that the guideline value of the property is Rs.9.50. In that event, the Tribunal should have fixed the highest value, as has been held by the Hon'ble Supreme Court and this Court in many judgments. Therefore, this Court is of the considered view that the fixation of market value at Rs.6/- without any basis is not sustainable. In that view of the matter, this Court modifies the award of compensation from Rs.6/- to Rs.9.50 per square foot on the basis of Ex.C.3.

5. The present appeal is partly allowed to the extent indicated above. In respect of all other aspects, the award of the Tribunal is confirmed. The second respondent is directed to deposit the award of compensation along with solatium, additional value and accrued interest on the above compensation, within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs.

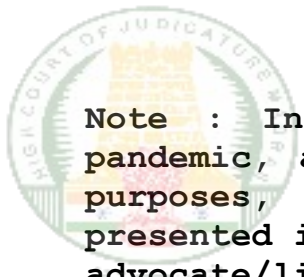
Sd/-

Assistant Registrar (ADII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

1.The Additional District and Sessions Judge
(Fast Track Court), Dindigul.

2.The Section Officer, (2C)
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

A.S. (MD) No.103 of 2007
Dated:21.12.2020

ES (CO)
KB(09.06.2021) 3P 4C