



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: **21.12.2020**

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

A.S. (MD)No.7 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.4509 to 4511 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 Principal Subordinate Judge, Dindigul, in L.A.O.P.No.15 of 1989, dated 11.03.2004.

For Appellants : Mr.V.Raghavachari
For Respondent No.1: Mr.J.Gunaseelan Muthiah,
Additional Government Pleader
For Respondent No.2: Mr.S.Manohar

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 Broad Gauge 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 Principal Subordinate Judge, Dindigul, under Section 18 of the Land Acquisition Act, 1894. Before the Tribunal, no witness was examined and no documents were marked on either side. However, the Tribunal, relying on the Award passed by the learned Additional District and Sessions Judge, Dindigul, in L.A.O.P.Nos.14 and 19 of 1989, has fixed the market value of the acquired land at Rs.6/- per square foot. Seeking to enhance the compensation, the appellants have come up with the present 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.147/3A2. Further, from the perusal of the Award passed by the Tribunal in L.A.O.P.Nos.14 and 19 of 1989, it is seen that for the very same acquisition and for the land adjacent to the acquired land, the Tribunal fixed Rs.6/- per square foot, relying on Ex.C.2 and Ex.C.3 marked therein, in which 2400 square feet was sold for Rs.21,600/- in respect of Survey No.146/3 and 2400 square feet was sold for Rs.23,000/- in respect of the very same survey number respectively. As per the above sale documents, the market value works out to Rs.9/- and Rs.9.50 per square foot.

4. It is not in dispute that the entire property is surrounded by residential colonies and well developed area. However, following the Award passed in the very same land acquisition proceedings, the Tribunal had fixed the market value at Rs.6/- per square foot without assigning specific reasons.

5. 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, for the very same acquisition, the guideline value of the property is fixed at 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.

6. In fine, the 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.

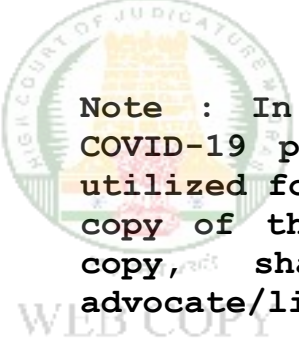
Sd/-

Assistant Registrar (ADII)

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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.

To

1.The Principal Subordinate Judge,
Dindigul.

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

+1CC to Mr.V.Ragavachari, Advocate, SR.no. 26887 dated 22/12/2020

+1CC to Mr.S.Manoharan, Advocate, Sr.No.26975 dated 23.12.2021

A.S.(MD)No.7 of 2007

Dated:21.12.2020

ES (CO)

KB(09.06.2021) 3P 6C