BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.12.2020
CORAM:
THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

A.S(MD)No.239 of 2009
and
M.P(MD).No.1 of 2009

The Sub-Collector,
Padmanabhapuram. : Referring Officer / Appellant

Vs.

1.M.Perumalpillai
2.M.Ravishnakar
3.M.Thangam
4.M.Anandham
5.T.Gopalakrishnapillai
6.Palaniyapillai
7.Saroja
8.Ravishankar
9.Sri Ram
10.The Managing Director,
Tamil Nadu State Transport Corporation,
Nagercoil. : Respondents

Prayer: Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the Judgment and decree of the Subordinate Judge of Pandmanabhapuram in LAOP.No.2 of 1988, dated 21.12.2001.

For appellant : Mr.J.Gunaseelanmuthiah
Additional Government Pleader

JUDGMENT

This Appeal Suit is filed against the Judgment and Decree, dated 21.12.2001 passed in LAOP.No.2 of 1988, on the file of the Subordinate Court, Pandmanabhapuram.

2.The appellant has issued a notification under Section 4(1) of the Land Acquisition Act, 1894 (herein after referred to as 'Act') for acquiring 2 ½ acres of land belonging to the respondents/claimants for the purpose of expanding the Tamilnadu Nesamani Transport Corporation, which is an undertaking of the Tamil Nadu Government. Based on the sale value of the property mentioned in document bearing Registration No.356/1981, dated 16.02.1981, the Land Acquisition Officer fixed the market value of the land at Rs.1100/- per cent. Not satisfied with the compensation awarded by the appellant, the respondents raised objection under Section 18 of the Act before the Tribunal viz., the Subordinate Court, Padmanabhapuram.

3.Before the Tribunal, on the side of the respondents/claimants three witnesses were examined as C.W.1 to C.W3 and marked 17 documents as Ex.C1 to Ex.C17. On the side of the appellant, one witness was examined as R.W.1 and two documents were marked as Ex.R1 and Ex.R2.

4.After considering all the materials placed before the tribunal, the Tribunal has enhanced the market value from Rs.1,100/- to Rs.2,500/- per cent. Aggrieved over the enhancement, the appellant / Referring Officer has preferred the above appeal.

5.The learned Additional Government Pleader appearing for the appellant would contend that the enhancement of Rs.2,500/- from Rs.1,100/- per Cent is too exorbitant and documents marked by the respondents are not relevant to the land acquired for the purpose of expansion of workshop. Further, the Tribunal erroneously relied on small pieces of land for acquisition of larger extent of 2 ½ acres belonging to them. The Tribunal had relied on Ex.C16, whereas Ex.C.16 - Sale transaction that had taken place between the same family members for the purpose of boosting of the market value of the property. When larger extent of land are acquired, the Tribunal ought to have deducted 33% towards development charges, which was also not deducted in the present case by the Tribunal. Therefore, on these grounds, he would pray that the order passed by the Tribunal is liable to be set aside.

6.I have considered the submissions made on either side and perused the materials placed on records.

7.It is no doubt that 2.68 acres of land in Survey N.3/2 situated at Thalakkulam Village was acquired by the appellant for the purpose of expanding the workshop belonging to Tamil Nadu Nesamani Transport Corporation. It is also not in dispute that the Transport Corporation has already put up the building adjacent to the acquired property. The evidences of C.W.1 to C.W.3 categorically prove that the acquired land is surrounded by the workshop belonging to Transport Corporation, Church and other building and it is a well developed area and it is also abetting a main road. When the buses are taken up to workshop, it requires wide road. In that view of the matter, the land acquisition surrounded by commercial establishment apart from the workshop of the Transport Corporation has not disproved by the evidence on the side of the respondents. Therefore, it should be construed that it is a well developed area. In respect of fixation of enhancement of the market value is concerned, the Tribunal has considered the data documents marked as Ex.C.1 to Ex.C.17 on the side of the claimants. The Tribunal has not blindly accepted the documents marked, but, it has analysed that the land acquired is adjacent to the acquired land. The value fixed by the appellant / Referring Officer is based on a document, which is situated one furlong away from the acquired property, whereas, sale transaction in Ex.C.16 was very near to the acquired land and the purchaser and seller were examined. It is not proved by the respondents that it was done for the purpose of boosting of the price that had happened between the family members of the claimants.

8.In such circumstances, the Tribunal has rightly accepted Ex.C-16-sale transaction, wherein, the land was sold for Rs.2,600/- per Cent. After taking into consideration potentiality and future development of the area as well as the nature of the land and existence of shops, parks, residential houses, church and village office had fixed the market value of the land at Rs.2,500/- per Cent. The award of compensation has been rightly fixed by the Tribunal and hence, I do not find any discrepancy in the said award passed by the Tribunal and accordingly, the Appeal Suit is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmk

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 Subordinate Judge,
Pandmanabhapuram.

Copy to
The Record Keeper, VR Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1cc to Mr.M.P.Senthil Advocate SR.No.25524
+1cc to SPL.Government Pleader Sr.No. 25535

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