



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WEB COPY

A.S.(MD).No.4 of 2020
and
C.M.P.(MD).No.261 of 2020

The Revenue Divisional Officer,
Land Acquisition Officer,
Uthamapalayam.

... Appellant

Vs.

- 1.R.Vasanthi
- 2.S.Radhakrishnan
- 3.S.Surulivel
- 4.A.Mallika
- 5.S.Santhi
- 6.A.Rajeswari
- 7.S.Annakamu
- 8.S.Annakamu for the son of (late) son Pandian ... Respondents

Prayer: The Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Land Acquisition Claims Tribunal (Fast Track Court No.4), Madurai at Periyakulam, made in L.A.O.P.No.1 of 1999, dated 21.03.2005.

For Appellant : Mr.N.Shanmugaselvam
Additional Government Pleader
For R1, 2, 4 to 6 : Mr.A.Thirumurthy

J U D G M E N T

Aggrieved over the judgment of the Land Acquisition Tribunal (Fast Track court No.4), Additional District Judge, Madurai at Periyakulam in enhancing the compensation under Reference, the present appeal suit has been filed.

2. The brief facts leading to the filing of the appeal is as follows:

The land measuring to an extent of 1.28 acres in Survey Nos.453/3, 454/1 and 455/2 situated at Hanumanthanpatti Village, Uthamapalayam Revenue Division were acquired under 4(1)



Notification, dated 28.07.1989, for the purpose of construction of the Court complex at Uthamapalayam. The total extent of the above said survey numbers is 1.70 acres and the respondents are entitled to 1.28 acres. The land was acquired for a sum of Rs.872/- per cent. Aggrieved over the said compensation, a Reference was made before the Land Acquisition Tribunal.

3. It is the case of the respondents before the Tribunal that the acquired land is situated near the Highway and many houses are built up in that area. Panchayat Union Office, D.S.P. Office and Cinema Theatre are also situated near the said acquired land. Recently, a cent was sold for a sum of Rs.13,000/- for the purpose of construction of Tele-communication Office Housing buildings. Hence, they prayed for enhancing a sum of Rs.15,000/- per cent. No counter affidavit whatsoever filed by the appellant/the Revenue Divisional Officer, Land Acquisition Officer, Uthamapalayam before the Tribunal. However, before the Tribunal, the Commissioner was appointed to find out the locality of the building and Report was also filed.

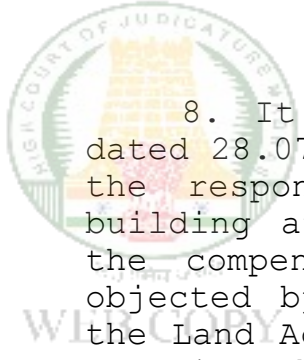
4. Before the Tribunal, on the side of the petitioners, P.Ws.1 and 2 were examined and Exs.P1 to P4 were marked and on the side of the respondent, R.W.1 was examined and Exs.R1 to R3 were marked.

5. Based on the above evidence, the Tribunal has fixed the compensation at the rate of Rs.5,000/- per cent. Against which, the present appeal suit has been filed. The said order was passed on 21.03.2005, whereas, the present appeal is taken up for hearing today after 15 years.

6. The learned Additional Government Pleader appearing for the appellant contended that the original compensation is Rs.872/- per cent and the same was enhanced to Rs.5,000/- which is arbitrary, without any evidence. Hence, his contention is that the said enhancement is not in accordance with law and prayed for allowing the appeal. Whereas, the learned counsel appearing for the respondents contended that the Tribunal, after taking into consideration the location of the area and also taking into consideration the fact that at the time of Reference, per cent was sold for a sum of Rs.13,000/- and even prior to the 4(1) Notification, per cent was sold for a sum of Rs.2,000/-, reasonably fixed the compensation at the rate of Rs.5,000/- per cent and the same does not require any interference.

7. In the light of the above submission, now the point arises for consideration in this appeal is

- (i) whether the enhancement of compensation awarded by the Tribunal is arbitrary without any evidence,
- (ii) what the parties are entitled to.



8. It is not in dispute that as per the 4(1) Notification, dated 28.07.1989, an extent of 1.70 acres of land were acquired from the respondents for the purpose of construction of the Court building at Uthamapalayam. The Land Acquisition Officer has fixed the compensation at the rate of Rs.872/- per cent, which was objected by the land owners. Therefore, Reference was made before the Land Acquisition Claims Tribunal, Madurai. Before the Tribunal, P.Ws.1 and 2 were examined and Exs.A1 to A4 were marked. Ex.A1 clearly shows that prior to the date of 4(1) Notification, per cent has been sold for Rs.2,000/-. It is the specific case of the claimants that there are residential colonies in and around the land, Government Buildings, D.S.P. Office and other Telephone Exchange Department are also situated, which fact has not been disputed and in fact, no counter affidavit whatsoever filed by the appellant before the Tribunal. The entire pleadings of the claimants are not disputed by the appellant. The Commissioner was appointed and R.W.1 has also admitted the evidence that the land is situated near Kambam - Madurai National Highway and Al-Umma College also situated very nearby the land, Temple and Mosque are also situated there and the above evidence also taken into consideration by the Tribunal and before the Notification, the land was sold for more than Rs.2,000/- per cent under Ex.P1. Hence, the area has been completely developed even at the time of 4(1) Notification. Only the market value has to be taken note of for proper determination of the compensation. Once the land acquired, all the rights of the people have been taken away. The approach of the Acquisition Officer to grant fair compensation must be based on all relevant materials. A reasonable compensation has to be arrived, taken into consideration the totality of the circumstances, surrounding the area where the land was acquired. Admittedly, on the date of Reference, as per the pleadings, the value of per cent is Rs.13,000/-, which has not been disputed in the counter. Such being the position, the Reference Court has fixed the compensation only at the rate of Rs.5,000/- per cent.

9. In fact, the Tribunal has taken note of the locality of the entire area, which was already developed, fixed the compensation. Therefore, this Court is of the view that the enhancement of compensation arrived by the Tribunal is very reasonable and it does not require any interference. Accordingly, the above points for consideration are answered. The Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)



The Additional District Judge,
Land Acquisition Claims Tribunal
(Fast Track Court No.4),
Madurai at Periyakulam.

Copy to:
The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai (2 copies)

+1 CC to Mr.A.THIRUMURTHY, Advocate (SR-1172[F] dated 09/01/2020)
+1 CC to SPL.GP (SR-1620[F] dated 13/01/2020)

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MK (30.01.2020) 4P 6C