



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

A.S(MD).No. 42 of 2016

WEB COPY

P. Sabesan

: Appellant /Petitioner

Vs.

1. The Assistant Collector,
(Land Acquisition Officer),
Padmanabhapuram Thucklai,
Kanyakumari District.

2.Indian Rare Earths Limited,
Manavalakurichi,
Kanyakumari District.

.. Respondents/Respondents

Prayer: Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the Judgment and Decree dated 25.07.2003 passed in LAOP.No.16 of 1989 by the learned Subordinate Judge, Padmanabhapuram, Thuckalai, Kanyakumari District.

For appellant	: Mr. T. Lajapathi Roy
For 1 st respondent	: Mr. J. Gunaseelan Muthaiah Additional Government Pleader
For 2 nd respondent	: Mr. Krishna Srinivasan for Mr. S. Ramasubramanian

JUDGMENT

The present Appeal Suit has been preferred by the appellant / claimant against the rejection of his claim for enhancement by the Sub Court, Padmanabhapuram, Thuckalai, Kanyakumari District.

2. According to the appellant, 4(1) Notification was issued on 13.07.1984 for the purpose of acquiring the lands for expansion of roads, for which, the claimant's land to the extent of 13.01 Cents in the properties was acquired. The Land Acquisition Officer has fixed the market value at Rs.630/- per Cent. The claimant has raised his objection and the matter was referred under Section 18 of the Land Acquisition Act, 1894 to the Sub Court, Padmanabhapuram, Thuckalai, Kanyakumari District.

3. Before the Tribunal, on the side of the claimant, one witness was examined as CW.1 and six documents were marked as Exs.C1 to C6. On the side of the respondents, two witnesses were examined as RW.1 and RW.2 and two documents were marked as Exs.R1 and R2.



4. In order to ascertain the market value of the property and the physical features, the Court below appointed an Advocate Commissioner and he had also filed a report before the Court below on 21.09.1994. However, the details of Advocate Commissioner's report as well as the reason for not accepting the sale documents marked as Ex.C3 and Ex.C4 were not recorded by the Court below. After explaining the oral evidence given by the parties and the documents, the Court below has passed a non-speaking order that the value fixed by the Land Acquisition Officer is correct and the report given by the Advocate Commissioner is without any basis and therefore, refused the claim of the appellant / claimant.

5. On perusal of Ex.C3, which is a sale document made on 10.08.1983, it is seen that the value of the land was shown as Rs.2,375/- per Cent. The Court below has not given any reason for accepting the said document. The date of Ex.C4 document is 08.05.1985, which is after issuance of 4(1) Notification. There is no reason stated by the Court below for accepting the said document. It may be true that the documents, after issuance of 4(1) Notification, will not normally be considered. However, if there is convincing evidence that the land value was static before and after issuance of 4(1) Notification, that can be taken into consideration. Whereas, the Court below has not recorded any reason either for accepting or rejecting the document, but also blindly rejected the report of the Advocate Commissioner without reasons as well. Such a cryptic order is not sustainable in law.

6. It is reported that there are connected land acquisition original petitions in LAOP.Nos. 1 and 8 of 2018 and batch are pending for disposal before the Court below. It is also submitted that the matter is now transferred to the Sub Court, Eraniel. In such circumstances any finding at this stage by this Court will have influence over the decision by the Tribunal in the pending cases. Further, the parties pray for adducing additional evidence. In such an event, in the interest of justice, it is fair to remand the matter to be decided along with the batch of cases pending before the Tribunal. It is made clear that both the parties are entitled to file additional documents and let in additional evidence before the Sub Court, Eraniel.

7. In such circumstances, the order passed in LAOP.No.16 of 1989, dated 25.07.2003 stands set aside. The matter is remanded back to Court below to reconsider the claim of the appellant along with other petitions in LAOP.Nos. 1 and 8 of 2018 and to pass a speaking order.

8. Considering the present Covid-19 Pandemic situation, the Court below viz., Sub Court, Eraniel is directed to dispose of all the connected cases after resumption of regular Courts or restoration of normal Courts and pass orders, within a period of



9. With these observations, this Appeal Suit is disposed of.
No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

trp

Note: 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

TO

1. The Subordinate Judge, Eraniel.
2. The Subordinate Judge, Thucklai,
Kanyakumari District.
3. The Assistant Collector,
(Land Acquisition Officer)
Padmanabhapuram Thucklai,
Kanyakumari District.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1cc to SPL GP Sr.No.24256

A.S (MD) .No. 42 of 2016
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VB (08.02.2021) 3P 7C