



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

A.S(MD)No.62 of 2015 and

M.P(MD).No.1 of 2015

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The Special Tahsildar(L.A),
Neighbourhood Scheme,
Tirunelveli.

.. Appellant/1st Respondent

Vs.

1. M. Selvaraj
2. Subburathinam
3. The Executive Engineers,
Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Tirunelveli - 11.

.. Respondents 1 & 2 / Claimants

.. 3rd Respondent/2nd Respondent

Prayer: Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the Judgment and Decree of the Additional District Court (Fast Track Court No.II), Tirunelveli in L.A.O.P.No.45/2002, dated 29.08.2003.

For Appellant	: Mr. J. Gunaseelan Muthiah Additional Government Pleader
For Respondent Nos.1 and 2	: Mr.S.Kumar
For Respondent No.3	: Mr. Mahaboob Athiff

JUDGMENT

The present Appeal Suit has been preferred against the Award passed by the learned Additional District Judge (Fast Track Court No.II), Tirunelveli, in L.A.O.P.No.45 of 2002, dated 29.08.2003, enhancing the market value from Rs.500/- to Rs.3,050/-.

2. The appellant acquired the lands for the purpose of Neighbourhood Scheme permitted by the third respondent / Tamil Nadu Housing Board, for which, 4(1) notification was issued on 16.03.1990. The Land Acquisition Officer determined the market value as Rs.500/- per Cent. Aggrieved over the same, the respondents 1 and 2 / claimants have made a request for reference under Section 18 of the Act for enhancement of the market value. The Court below has fixed the market value at Rs.3,050/- per Cent by relying the document Ex.C9, dated 08.06.1990.

3. According to the appellant, the enhanced value of the land



fixed by the Court below is exorbitant and without considering the quality, access and situation of the land. Further, the document relied on by the Court below is merely piece of land sold for sparing price. It is necessary for the claimants to prove the land value, but, they failed to discharge their burden. Therefore, the market value fixed by the Court below is liable to be modified.

4. I have well considered the submission of the learned Additional Government Pleader appearing for the appellant and the counsel for third respondent.

5. From the material facts produced before this Court, it is seen that the land was acquired for promoting Neighbourhood scheme by the third respondent / Tamil Nadu Housing Board. Further, Ex.C9, relied on by the respondents / claimants, dated 08.06.1990 situated very near to the acquired land. The acquired land situated on Tirunelveli - Tuticorin main road, but, the Land Acquisition Officer relied on the data document which is situated in Tirunelveli - Thiruchendur road, which is 4 Kilometers away from the acquired land. There is no justification for relying on the sale value of the property, which is 4 Kilometers away from the acquired land, to determine the market value.

6. On the other hand, the Court below has considered the sale deed produced by the respondents which are very near to the acquired land. The land was sold for Rs.3,300/- per Cent and the evidence has been adduced that the land value is such as not lesser than Rs.3,000/- per cent.

7. Considering the oral and documentary evidence and also situation of land, which is very near to the road surrounded by the land, the market value of which is more than Rs.3,350/-, the acquired land being well developed area and converted as commercial plots, the Court below fixed the market value at Rs.3,050/- supported by Ex.C9 and the same does not warrant any interference by this Court. Thus, the contention that the claimants have failed to discharge the burden of proof cannot be accepted. On the other hand, the data documents relied on by the appellant could not be relied on for fixing the fair and proper compensation.

8. The learned counsel appearing for the third respondent would submit that the third respondent has already deposited the enhanced rate before the Court below.

9. Considering the facts and circumstances of the case, I do not find any merit in the appeal filed by the appellant and accordingly, the appeal suit is dismissed. The claimants are entitled to get the amount along with interest as Awarded by the Court below. The Court below is directed to disburse the amount



immediately to the respondents 1 and 2 / claimants. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

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 Additional District Court(Fast Track Court No.II),
Tirunelveli.

2.The Special Tahsildar(L.A),
Neighbourhood Scheme,
Tirunelveli.

3. The Executive Engineer,
Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Tirunelveli - 11

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

+1 CC to M/s.S. KUMAR, Advocate (SR-20307[F] dated 16/10/2020)

+1 CC to M/s.GP (SR-20144[F] dated 15/10/2020)

A.S(MD)No.62 of 2015 and
M.P(MD).No.1 of 2015
14.10.2020

PK(CO)

KK(18.11.2020) 3P 8C