IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MRS.JUSTICE S.KANNAMMAL

A.S.NO.1003 OF 2015

R.Prema (died)
by LRs appellants 1 to 3
D.Kalyani (died)
by LRs appellants 4 to 6
1.Nirmala Dayalan
2.R.Kowsalya
3.R.Chitra
4.Damodaran
5.Deepakshravan
6.Deepika .. Appellants

Vs

1. The Special Tahsildar (L.A.)Unit-I,
Outer Ring Road Project,
Chennai Metropolitan Development Authorities,
Egmore, Chennai - 600 008
is now having office at
K.M.M.C. Building, Koyambedu Market,
Koyambedu, Chennai - 92.

2. The Member Secretary,
Chennai Metropolitan Development Authorities,
Egmore, Chennai - 600 008. .. Respondents

Prayer:

Appeal filed under Section 96 read with Order 41 Rules 1 and 2 of CPC against the judgment and decree in L.A.O.P.No.53 of 2004 dated 17.12.2011.

For Appellants : Mr.J.Ram

For Respondents : Mr.Edwin Prabhakar,
Government Counsel for R1
M/s.P.Veena Suresh for R2

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the claimants, for a change, challenging the award passed by the Reference Court in L.A.O.P.No.53 of 2004 dated 17.12.2011.

2. The appellants are the legal heirs of the original claimants. The lands have been acquired by the first respondent for the formation of Outer Ring Road connecting with GST Road 45 and Minjur-Kolkatta High Road.

3. The Land Acquisition Officer fixed the value at Rs.2.63 per sq.ft. corresponding to Rs.1,150/- per cent. On a reference, the sub-court has enhanced it to Rs.13.13/- per sq.ft corresponding to Rs.5,750/- per cent. Placing reliance upon Ex.C2 pertaining to Survey No.276/4 dated 16.12.1998 which indicates the value per cent at Rs.45,417/-. The date of notification is 24.12.1999. The present appeal has been filed seeking enhancement on the basis of Ex.C2.

4. Learned counsel appearing for the appellants by producing Master Plan for Chennai Metropolitan area indicating the Outer Ring Road is situated of the data sale deed relied upon by the respondents and Exs.C1 to C3 relied upon by the appellants submitted that the prayer will have to be allowed particularly when there is no need for deduction as the object for which the acquisition is made is to lay the outer ring road. It is further submitted that having accepted Ex.C2, the Reference Court without any basis fixed the value at Rs.5,750/- per cent as against Rs.45,417/- per cent. The Reference Court is expected to sit in the armchair of the seller and the buyer while fixing the compensation.

5. Learned Government Counsel appearing for the first respondent and the learned counsel appearing for the second respondent while seeking suspension of the award passed by the Reference Court submitted that there is no deduction made while placing reliance upon Ex.C2 being the small plot of 240 sq.feet situated in a fully developed area bit far away from the acquired land as against the data sale deed. Therefore, no interference is required.

6. We have perused the sketch produced which indicates that the location of Exs.C1 to C3, acquired land and the data sale deed relied upon by the first respondent. Admittedly, the award of the Reference Court has become final at least against the respondents. The Reference Court relied upon Ex.C2 while fixing the value. However, we find that the data sale deed is situated nearer to Exs.C1 to C3. Having said that one cannot say that the data sale deed will have to be taken into consideration as it is quite settled by this length of time that the data sale deed which is beneficial to the claimants will have to be taken into consideration. While doing so, we are inclined to note that the documents relied upon under Exs.C1 to C3 are bit far away than the data sale deed. They are fully developed plots surrounded by schools, colleges, roads, constructed buildings among other developments whereas the data sale deed is the agricultural land and so also the acquired land.

7. We are concerned not only with the nature of the land but also its potential. Therefore, while the valuation mentioned under Ex.C2, per se cannot be taken into consideration, the same cannot be completely eschewed. There is no difficulty in holding that the lands acquired do have lot of potential. This is because Ex.C2 land is situated bit far away with a lesser extent of land fully developed and surrounded by developed area. We cannot fix the valuation based only upon the data sale deed. In fact, the Reference Court itself has relied upon Ex.C2. Therefore, the only question for consideration is fixation of valuation by taking note of Ex.C2, though the valuation fixed per se cannot be accepted.

8. We have already discussed the surrounding facts. We are of the view that the Reference Court is not correct in fixing the valuation of Rs.5,750/- per cent as against Rs.45,417/- per cent under Ex.C2. It is true that the appellant may not be entitled for the same amount as per Ex.C2 but one cannot sustain the fixation of valuation at Rs.5,750/-. Certainly, there should be a deduction from valuation under Ex.C2 by taking note of the factors mentioned above. Though there cannot be any deduction by taking into consideration the nature of acquisition, there shall be a deduction while comparing the exemplars relied upon by the claimants which is the developed plot as against the agricultural land. Therefore, taking into consideration the fact that Ex.C2 is situated bit far away and completely surrounded by developed area and the land itself is developed being very small extent, we are inclined to fix the valuation at Rs.15,000/- per cent without any deduction along with other statutory entitlement as ordered by the Reference Court.

9. The appeal stands allowed in part by fixing the valuation at Rs.15,000/- per cent. No costs. However, we make it clear that the interest on solatium is to be given to the appellants in terms of the judgment of the Apex Court in Gurpreet Singh v Union of India reported in (2006) 8 SCC 457, to be reckoned from 19.09.2001.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Additional Subordinate Court,
   Chengalpattu.

2. The Special Tahsildar (L.A.)Unit-I,
   Outer Ring Road Project,
   Chennai Metropolitan Development Authorities,
   Egmore, Chennai - 600 008
   is now having office at
   K.M.M.C. Building, Koyambedu Market,
   Koyambedu, Chennai - 25.

3. The Member Secretary,
   Chennai Metropolitan Development Authorities,
   Egmore, Chennai - 600 018.

Copy to

The Section Officer,
VR Section, High Court,
Madras.

+1cc to M/s.P.Veena Suresh, Advocate, S.R.No.41940
+1cc to the Special Government Pleader, S.R.No.41848

A.S.No.1003 of 2015

RM(CO)
PM/23/11/2021