IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.01.2021

CORAM:
THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
A.S.Nos.1011 to 1014 of 2007
and
C.M.P.Nos.2844 to 2851 of 2007

A.S.No.1011/2007

The Special Tahsildar (LA),
Unit-3,
Krishna Water Supply Project,
Thiruvallur. .. Appellant/Referring Officer

Vs.

1. Balakrishnan

2. Parandhaman

3. Thamba Naidu .. Respondents/Claimants

A.S.No.1012/2007

The Special Tahsildar (LA),
Unit-3,
Krishna Water Supply Project,
Thiruvallur. .. Appellant/Referring Officer

Vs.

Balakrishnan .. Respondent/Claimant

A.S.No.1013/2007

The Special Tahsildar (LA),
Unit-3,
Krishna Water Supply Project,
Thiruvallur. .. Appellant/Referring Officer

Vs.

Paranthama Naidu .. Respondent/Claimant

A.S.No.1014/2007

The Special Tahsildar (LA),
Unit-3,
Krishna Water Supply Project,
Thiruvallur. .. Appellant/Referring Officer

Vs.

Rajendran .. Respondent/Claimant

COMMON PRAYER: Appeal Suit is filed under Section 96 of C.P.C against the judgment and decree of the Sub-Ordinate Judge, Thiruvallur in LAOP. NoS.461, 462, 463 and 464 of 2002 respectively dated 31.03.2003.

For Appellant : Mr.J.Balagopal
Spl.GP (AS) (in all cases)

For Respondents : No appearance (in all cases)

COMMON JUDGMENT

(The case has been heard through video conferencing)

These batch of first appeals are preferred by the State being aggrieved by the compensation fixed by the Land Acquisition Tribunal. The grounds raised are identical since the impugned order arises from the same acquisition award 5/91-92 passed by the appellant herein.

2. Heard the learned Special Government Pleader for the appellant. Though the respondents were served notice, there is no representation on their behalf.

3. The brief facts of the case is that the land of the respondents was acquired for raising the F.T.L of Chembarambakkam Tank in Sriperumbudur Taluk under the Krishna Water Supply Project. The Gazette notification was published expressing the intention of acquisition on 13.02.1991 and objection was called. Over ruling the objection, the land was acquired for a sum of Rs.250/- per cent for dry land and Rs.320/- per cent for wet land as per award passed by the land acquisition Officer. The respondents land is in Katrambakkam Village, Sriperumbudur taluk, Thiruvallur District. The Survey number and the actual of their land is extracted as below:-

| LAOP.Nos. | Survey Nos. | Extent of land |
|---|---|---|
| 461of 2002 | 393/1 | 0.14.5 (36 cents) wet 1/3rd share |
| 462 of 2002 | 376/6A | 0.10.0 (25 cents) wet land |
| 463 of 2002 | 393/1 | 0.14.5 (36 cents) wet 1/3rd share |
| 464 of 2002 | 376/6B | 0.06.5 (16 cents) wet land |

4. Aggrieved by the quantum of compensation, the land owners, who are the respondents herein, preferred the petition LAOP Nos.461 to 464 of 2002 before the Land Acquisition Tribunal under Section 18 of the Land Acquisition Act. After considering the material placed before the Tribunal, the award passed by the land acquisition officer was enhanced to Rs.3840/- per cent being the wet land.

5. The present batch of appeals are preferred by the State alleging that fixation of Rs.3,840/- per cent for wet land and Rs.3,500/- per cent for dry land are excessive and exorbitant. The said fixation of compensation by the land acquisition Tribunal is contrary and violative to the procedure laid under the Act. Reliance of Ex.A1 by the Tribunal for enhancing the compensation termed as unreasonable. The document taken for market value of the property which is located about 3 k.m., away from the acquired land referring Ex.A-1 is wrong. The State also questioned and that the larger extent of land was acquired for the purpose of Krishna Water Supply Project and therefore development charge at the rate of 30% ought to have been deducted, which the Tribunal has miserably failed. Hence the enhanced award fixed by the Tribunal need to be interfered.

6. In support of his argument, the learned Special Government Pleader appearing for the appellant/State referring the Division Bench judgment of this Court rendered in the batch of appeal suits A.S.Nos.707 to 721 of 2004 etc., delivered on 30.04.2008 and judgment in A.S.No.816 of 2010 dated 19.11.2020.

7. Points for determination:

(i) whether the land acquisition Tribunal erred in relying upon Ex.A-1 for enhancing the compensation?

(ii) Whether the development charges should be deducted from the compensation fixed?

8. The land in question was an agricultural land and under the scheme of Krishna Water Supply Project, Unit-III, a total extent of 3.07.5 hectares land in Katrambakkam village, Sriperumbudur Taluk was acquired after following due procedure established under law.

| A.S.Nos. | LAOP.Nos. | Survey Nos. | Extent of land | Award amount per cent |
|---|---|---|---|---|
| 1011 of 2007 | 461/2002 | 393/1 | 0.14.5 (36 cents) 1/3rd wet | Rs.3,840/- |
| 1012 of 2007 | 462 of 2002 | 376/6A | 0.10.0 (25 cents) wet land | Rs.3,840/- |

| A.S.Nos. | LAOP.Nos. | Survey Nos. | Extent of land | Award amount per cent |
|---|---|---|---|---|
| 1013 of 2007 | 463 of 2002 | 393/1 | 0.14.5 (36 cents) 1/3rd wet | Rs.3,840/- |
| 1014 of 2007 | 464 of 2002 | 376/6B | 0.06.5 (16 cents) wet land | Rs.3,840/- |

9. It is a linear acquisition to lay a canal to raise the F.T.L of Chembarambakkam tank. The respondents, who are the land owners have lost between 6 cents to 36 cents of their land. When the acquisition officer has fixed at Rs.320/- per cent for wet land, the land owners have preferred the petitions for enhancement of compensation under Section 18 of the Land Acquisition Act. Contending that the land acquired is very near to Highways and nearby lands are plotted out for housing sites. During the time of acquisition, the land in neighbouring survey numbers were sold between Rs.5,000/- to Rs.8,000/- per cent. Therefore, fair and adequate compensation should be paid to them with solatium and proportionate future increase in the market value.

10. The Tribunal on considering the nature of the land, its location and the market value in the neighbouring area has fixed Rs.3,840/- per cent for wet land. To this 30% solatium and 12% for the additional market value was awarded with the direction that from the date of possession 9% interest per annum for first one year and thereafter 15% till the date of deposit payable to the land owners.

11. The learned Special Government Pleader referring Ex.A1 submitted that the said document has no relevance to the land acquired and therefore, it should not have been taken as a referral document for fixing the market value and would also submit that even assuming Ex.A-1 as a referral document, proper deduction for the development charges ought to have been awarded.

12. This Court finds that the Tribunal has not taken the same value as shown in Ex.A-1. It has applied its mind taking note of the fact that the land which was subjected to the transaction under Ex.A-1, was the agricultural land and considering the location it has only fixed Rs.3,840/- and not the face value shown in the document Ex.A-1.

13. As far as the development charges is concerned, this Court is of the view that if any undeveloped land acquired for housing site or for industrial purpose, it is necessary to deduct development charges, provided the referral document to ascertain market value is a developed land. Otherwise, the question of deduction towards development

charges will not arise. More so, when the land acquired is to be used for no other purpose, but for single purpose of laying water canal to carry water from Krishna river to Chembarambakkam lake. Deducting development charges will not arise.

14. As far as the judgment referred and relied by the learned Special Government Pleader, the Division Bench has reduced 30% of the award passed by the Tribunal with the consent of both the parties. Therefore, it is not a judgment to be considered as a precedent. The other judgment rendered by a single Judge in A.S.No.812 of 2010 though under the same project, it is a case where the Tribunal has fixed Rs.5,200/- per cent as compensation and it was reduced to Rs.3,700/- per cent. On appeal the land in question is in a different area and different survey numbers. Hence the judgment also will not have any bearing to decide the present appeals.

15. On holistic consideration of the facts and circumstances of the case, this Court finds that the order of the Tribunal in L.A.O.P. Nos.461, 462, 463 & 464 of 2002 enhancing the compensation and fixing it at Rs.3,840/- per cent for wet land is fair and reasonable and need no interference. Hence the Appeal Suits are dismissed. The award of the Tribunal is confirmed. The appellant is directed to deposit the award amount with accrued interest within a period of eight weeks from the date of receipt of a copy of this judgment. Consequently, connected Civil Miscellaneous Petitions are also closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rpl

To,
1. The Subordinate Judge,
   Thiruvallur.

+1 cc to Government Pleader Sr.No. 2987

A.S.Nos.1011 to 1014 of 2007
and C.M.P.Nos.2844 to 2851 of 2007

A.SK(13.09.2021)