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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

A.S.No.67 of 2006
and C.M.P.No.2689 of 2006

The Land Acquisition Officer and
The Special Tahsildar, Palacode. .. Appellant/Referring Officer

Vs.

1. K.P.Munusamy
2. K.P.Murugesan (Deceased)
3. K.P.Krishnan
4. Vengatammal
5. Kalaiselvi W/o.K.P.Murugesan
6. Nandhini (Minor) D/o.K.P.Murugesan
7. Aravindan (Minor) S/o.K.P.Murugesan

(R6 & R7 are rep.by mother Kalaiselvi

(Respondents 5 to 7 brought as record as LR of the
deceased-R2 as per vide,order of this Court
dated 05.02.2021 in C.M.P.No.923 to 925/2010) .. Respondents

PRAYER: Appeal Suit is filed under Section 96 of C.P.C against
the judgment and decree passed in LAOP No.3 of 1996, dated
02.11.2004 on the file of the Additional District Court,
Dharmapuri.

For Appellant : Mr.J.Bala Gopal
Additional Govt.Pleader (AS)

For Respondents : No appearance
1,3,4

For R2 : Died



J U D G M E N T

Heard the learned Additional Government Pleader (AS) for the appellant.

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2. The Acquisition Authority has preferred the appeal being aggrieved by the enhanced compensation given to the land owners for the land acquired for the purpose of excavation of branch II canal L.M.C., of Kesergulihalla Reservoir. The Acquisition Authority has fixed the compensation at Rs.60/- per Cent for the land acquired.

3. Being aggrieved by the quantum of compensation, the land owner has preferred an appeal under Section 18 of the Land Acquisition Act before the Tribunal stating that the land in the adjacent survey number was sold at the rate of Rs.1029/- per Cent. The said land is hardly 100 feet away from the land acquired. Based on the said sale deed, the market value has to be fixed and the fair compensation has to be awarded.

4. The Acquisition Authority has contended that the land which is quoted for assessing the market value was sold as housing site. It is a developed land. The said price cannot be taken as guideline value for undeveloped land acquired. Rejecting the said plea, the Tribunal has accepted Ex.P-1, the sale deed dated 27.11.1985, wherein, for a Cent of land in neighboring survey number, Rs.1029/- was awarded. Taking it as market price, the compensation was enhanced from Rs.6,000/- to Rs.1,00,000/- per acre. The said award is under challenge in this appeal.

5. On hearing the learned counsel for the appellant and on perusing the record, this Court finds that 10 cents of lands owned by the respondents acquired for public purpose. The said land with 3 coconut trees were also acquired. Rs.500/- for each coconut tree has been awarded by the Tribunal by enhancing the award of the Acquisition Authority at Rs.150/-. Likewise, based on the document Ex.P-1 (sale deed), compensation enhanced from Rs.60/- to Rs.1,000/-. It is correct to say, when the neighboring land is a developed land, the same sale price cannot be applied to the undeveloped land. However, this Court is convinced that even if Ex.P-1 is taken for fixing market value and that land is a developed land and a housing site, considering the small extent of land that has been acquired, any reduction for development charges will substantially prejudice the interest of the land owner. Further more, this Court finds that for the well developed yielding coconut tree, the Tribunal has awarded only Rs.500/-, when one tender coconut is sold atleast for Rs.10/- during the year 1989-90, when the land



acquired. Therefore, in the interest of justice, there is no necessity to interfere with the award of the Tribunal.

6. In the result, the Appeal Suit is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Additional District Judge,
The Additional District Court, Dharmapuri.

2.The Section Officer,
V.R.Section, High Court, Madras.

A.S.No.67 of 2006
and
C.M.P.No.2689 of 2006

BR(CO)
CB(06/09/2021)