



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.02.2021

WEB COPY

CORAM:
THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
A.S.No.653 of 2005
and
C.M.P.Nos.196 to 198/2005, 876 to 878 of 2010

The Special Tahsildar,
(Land Acquisition),
Erode Adi Dravidar Welfare Scheme,
Erode District.

.. Appellant/Referring Officer

Vs.

Ramana Gounder

.. Respondent/Claimant

PRAYER: Appeal Suit is filed under Section 96 of C.P.C against the judgment and decree passed in LAOP.No.5 of 2002, dated 16.08.2004 on the file of Additional District Court, Fast Track Court-I, Erode.

For Appellant : Mr.Umesh Rao,
Government Advocate (AS)

For Respondent : No appearance

J U D G M E N T

Heard the learned Special Government Pleader.

2. It is a very pathetic case of the erstwhile land owner, who is no more now. Land to an extent of 10 acres was acquired for the landless Adi Dravidar living in poramboke. The appellant herein, after complying the acquisition formalities, has awarded compensation of Rs.36,595/- per acre with solatium and interest.

3. Aggrieved by that, the land owner has preferred a petition for enhancement of compensation before the Land Acquisition Tribunal stating that the neighbouring lands were sold at Rs.21/- per sq.ft and the land acquired ought to have been assessed, based on the square feet price, since it is well developed property, where several industries are located nearby. After considering the evidence, the Tribunal has fixed Rs.7/- per sq.ft., with 30% solatium and 12% interest.

4. Aggrieved by the enhanced award, the appeal filed by the Acquisition Authority.



5. Pending appeal, the sole respondent died, but the appellant, who is representative of the State has not taken any interest to bring the legal representatives of the deceased sole respondent in time. After delay of 1957 days, petitions are filed to condone the delay; to set aside the abatement; and bring the legal representatives on record. In these petitions, the Court on 25.06.2010 ordered notice to the proposed respondents. Specific direction was also given by this Court to the learned Special Government Pleader to serve notice on the respondents both through RPAD and in person with the assistance of the Revenue Officials. Despite several adjournments, the appellant has not served notice to the proposed respondents. Later, on 06.02.2013, it was reported by the learned Special Government Pleader that the proposed 3rd respondent died and necessary petitions taken to implead the legal representatives of the proposed 3rd respondent. The said petitions to bring the legal representatives of the deceased proposed third respondent were numbered as C.M.P.Nos.196 to 198 of 2013.

6. The perusal of the affidavit along with those petitions indicates that Ramana Gounder/the sole defendant died on 14.09.2004, leaving behind his daughter, son, husband of his pre-deceased daughter and daughter of his pre-deceased daughter. Thereafter, the appellant has not shown any interest to serve notice on the proposed respondent, despite granting several adjournments.

7. On merits, this Court finds that the learned Additional District Judge, Fast Track Court I, which has heard the petition under Section 18 of Land Acquisition Act, has gone through the evidence placed before it particularly Ex.P-2 to Ex.P-6, which are sale deeds prior and after the land acquisition proceedings. These sale deeds indicate that the property is worth about Rs.7/- per sq.ft., though there are document to show that some of the neighbouring lands were sold at Rs.21/- per sq.ft.. Since the land acquired is an undeveloped land, only 1/3rd of market value has been awarded.

8. Therefore, it is incorrect to say that the Court below has deliberately erred in not deducting the development charges. It is also not substantiated by the appellant with evidence that the Court below has erroneously compared the land sold in a smaller extent with the land acquired in acre. The location of the property, which is acquired and the market potentiality were taken to assess the market value. Furthermore, the compensation awarded at the rate of Rs.365/- per cent is nowhere near the market value prevailing during the land acquisition proceedings. Only after due consideration, the Court below has enhanced the compensation. Therefore, even on the merits, the appeal does not stand on the scrutiny of this Court.



9. Therefore, this Court is not convinced by the reason stated by the appellant to condone delay in setting aside the abatement. Accordingly, the petitions in C.M.P.Nos.876 to 878 of 2010 filed to bring the LR's of the deceased sole respondent with delay and in C.M.P.Nos. 196 to 198 of 2013 filed to bring the LR's of the of the proposed deceased 3rd respondent with delay are dismissed as devoid of reasonable and sufficient cause.

10. In the result, the Appeal Suit A.S.No.653 of 2005 is dismissed as devoid of merits. Consequently, connected Civil Miscellaneous Petition are also closed. No costs. The appellant herein is directed to deposit the award amount with accrued interest and costs before the Court below and intimate the same to the legal representatives of the deceased sole respondent at the earliest.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpl

To
The Additional District Judge,
Fast Track Court-I, Erode.

Copy to:
The Section Officer,
VR Section, High Court, Madras.

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SV(CO)
A.SK(21.09.2021)