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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

A.S.No.7 of 2015

R.Krishnamoorthy

...Appellant

Vs.

1.The Special Tahsildar,
Land Acquisition, Unit-III,
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

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

...Respondents

PRAYER: Appeal Suit filed under Section 54 of the Land Acquisition Act, to set aside the Judgment and Decree dated 12.03.2012, passed in L.A.O.P.No.53 of 2004 on the file of the learned Subordinate Judge, Poonamallee.

For Appellant : Mr.R.Rajesh

For Respondents

For R1 : Mr.A.E.Ravichandran
Government Advocate (CS)

For R2 : M/s.Veena Suresh
Standing Counsel

JUDGMENT

The Appeal Suit is filed as against the Judgment and Decree dated 12.03.2012 made in L.A.O.P.No.53 of 2004 on the file of the learned Subordinate Judge, Poonamallee.

2. For the sake of convenience, the parties are referred to as per their ranking in the trial Court.

3. The case of the claimant is that the first respondent acquired the land belonged to the petitioner/claimant for establishment of outer ring road by an award dated 03.09.2003. The land acquired in Kolappanchery Village situated within CMDA



limit. There are number of commercial building and industrial units situated very close to the acquired land. The acquired land is very close and within three kilometers from Pattabiram Railway Station and Chennai-Bangalore national highway road. Therefore, the rate fixed by the land acquisition officer very meager and not according to the market value. Hence he prayed for enhancement of compensation.

4. The acquisition officer filed counter stating that the government has followed the procedure as contemplated under the Land Acquisition Act and passed award dated 03.09.2003 and granted compensation by fixing the value for the land at Rs.700/- per cent. It requires no enhancement and prayed for confirming the awards.

5. On the side of the claimant, he examined C.W.1 and marked Ex.C.1 to Ex.C.4. On the side of the respondents, they examined R.W.1 and marked Ex.R.1 to Ex.R.3. On perusal of the material produced on record and considering both the oral and documentary evidence adduced by the respective parties and also the submissions made by the learned counsel on either side, the Court below fixed the land value at Rs.10,250/- per cent and awarded solatium at 30% and ordered additional market value at 12% per annum from the date of 4(1) Notification. Further ordered that the total of enhanced land value plus 30% of solatium plus 12% interest are treated as total compensation and the claimant is entitled to get 9% interest from the date of possession for one year and thereafter 15% per annum till the date of deposit. Aggrieved by the same, the present appeal suit has been preferred by the claimant.

6. The learned counsel appearing for the appellant/claimant submitted that in similar case, in which the land was acquired under the very same 4(1) notification dated 28.07.2000, the land value fixed at Rs.20,000/- per cent by this Court by an order dated 11.10.2011, in a batch of appeal suit in A.S.No.840 of 2009 etc. Therefore, he prayed for enhancement of the compensation amount.

7. It is relevant to extract the judgment dated 11.10.2011 passed by this Court in A.S.No.840 of 2009 etc., batch as follows :-

"24. A.S.Nos.951 to 956 of 2009: The name of the village is Kolappanchery. The date of 4 (1) Notification was 28.7.2000. The Land Acquisition Officer had relied on a sale deed dated 4.2.1999 for dry land and a sale deed dated 6.7.99 for wet land. On the basis of these two documents, he has fixed Rs.710/-per cent for dry land and Rs.700/-per cent for wet



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land. However, he had collected 15 sales statistics but he has not given any reason for rejection of the highest sale in S.No.45/2 dated 21.1.2000 which was immediately prior to 4(1) Notification. Under this sale statistics the land has been sold for Rs.17,470/- per cent. The reference court has referred to the above said sale and infact has stated that the claimants had requested the court to consider this sale and fix the market value. However, the claimants have also relied on Exs.C.1 and C.2 which relate to a sale in Varadharajapuram village.

25. Before the reference court, the claimants have relied on a judgment of Allahabad High Court reported in 2001 Allahabad 323 (neither the name of the journal nor the parties name was mentioned in the award). As per that decision, if there is no sale statistics available for the land acquired in the same village, the sale taken place in the neighbouring village which is comparable to the acquired land can be taken into consideration. On that basis, the reference Court had considered the sale statistics in Exs.C.3 and C4 dated 4.9.97 and 9.9.98 respectively under which the sales took place in Varadharajapuram which is south of Thookanampattu village.

26. In fact, the same reference court has relied on the same documents of Varadharajapuram to fix the market value for the land acquired for the identical purpose in the village of Thookanampattu since the former is adjacent to the subject matter village. In our considered opinion, Varadharajapuram is not adjacent to Kolapancherry which is the subject matter village. Interestingly, the reference court had taken the market value as per Ex.C.3 at 48,646/-per cent and Rs.21,800/-per cent under C.4 and also taken into consideration Rs.700/-per cent fixed by Land Acquisition Officer, calculated the average $(48646 + 21800 + 700 \times 1/3)$ and has arrived at a value of Rs.23, 715/-. 10% was added as appreciation value at Rs.2, 371/- and has arrived at Rs.26, 086/- and further stated that there is no deduction towards development charges and arrived at Rs.27,000/-per cent. Again in our considered view, the reference court ought to have either accepted the value fixed by Land



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Acquisition Officer or rejected the same. Similarly, it ought to have considered the value under Ex.C.3 or under Ex.C.4, but arriving at an average value is not the correct method of deciding the market value on the date of 4(1) Notification.

27. As stated earlier, Exs.C.3 and C.4 cannot be relied on as the sale was effected for the village at Varadharajapuram and at the same time, the sale effected as per Sl.No.13 of the sale statistics in which a wet land was sold for a sum of Rs.17,470/- on 21.1.2000 ought to have been considered. The sale is also for a smaller extent of one cent which could be comparable to the wet lands and dry lands of subject matter of the village in which smaller extent has been acquired from various claimants. Considering the land sold as wet land 10% increase in value can be added which would be Rs.19,217/- and which could be rounded off as Rs.20,000/-per cent. The highest sale, as stated above, which took place at Kolapancherry on 21.1.2000, which is immediately prior to 4 (1) Notification dated 28.7.2000, for a smaller extent of the similarly placed land, which has also equal potential value, is thus considered. Therefore, considering these facts, the market value is fixed at Rs.20,000/-per cent instead of Rs.27,000/- awarded by the reference court."

8. Considering the documents which were produced by the claimants, the Hon'ble Division Bench of this Court fixed the value of the land at Rs.20,000/- per cent. The subject matter of the land also, one of the same which was acquired by the same Notification from the very same village. Considering the above said judgment passed by the Hon'ble Division Bench of this Court, this Court feels that the claimant is entitled for enhancement of Rs.20,000/- per cent as compensation. Accordingly, the market value is fixed at Rs.20,000/- per cent, with all other benefits as awarded by the Court below.

9. In the result, this Appeal Suit stands partly allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar



1.The Subordinate Judge,
Poonamallee.

2.The Special Tahsildar,
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3.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

+lcc to M/s.R.Rajesh, Advocate Sr No.32770

+lcc to M/s.P.Veena Suresh, Advocate Sr No.33014

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SMI (CO)
PR (19/11/2021)