



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM:

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

AS.NO.748 OF 2015

AND

MP.NO.1 OF 2015

1. Union of India Rep. by the
Secretary to Government(Revenue),
Government of Puducherry, Puducherry
 2. The Revenue Officer cum
Land Acquisition Officer,
Central University Wing,
Directorate of School Education,
Puducherry
- ... Appellants/Respondents

.Vs.

V.Rajaram

...Respondent/Petitioner

PRAYER:

Appeal Suit is filed under Section 54 of Land Acquisition Act against the order dated 08.04.2015 in LAOP.No.64 of 2008 on the file of the Principal District Judge, Pondicherry.

For Appellants : Mr.G.Djearany,
Government Advocate(Pondy)

For Respondent : Mr.T.Dhanyakumar

JUDGMENT

The Appeal suit is filed against the order dated 08.04.2015 in LAOP.No.64 of 2008 on the file of the Principal District Judge, Pondicherry.

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



3. The case of the claimant is that the second respondent acquired larger extent of lands for the purpose of establishing Central University at Kalapet Revenue Village, Pondicherry. Thereafter, the second respondent passed award and determined value of the land at Rs.234/- per Are. Upon objections raised by the land owners, reference was made by the second respondent and the Referral Court enhanced the value of the land at Rs.1,401/- per Are. Therefore, the claimant sought for enhancement of the award amount for the land acquired from the claimant. As far as the land in question was determined by the award dated 09.09.1999 at Rs.981/- per Are instead of Rs.1401/- on the basis of the award in LAOP.No.164 of 1985. Further, the claimant stated that the decision of the Land Acquisition Officer for the lands comprised in RS.No.179/9 and 182/5 which are subject matter of the LAOP.No.164 of 1985 are not similar to the land which was acquired from the claimants in RS.No.180/3. It is situated far away from Marakkanam Road and situated interior and having no potential value of house site. It is also under developed and having no civil amenities. Whereas, the claimant's land in RS.No.180/3 is nearer to Marakkanam Road than the lands comprised in RS.No.179 and 182. Therefore, he sought for enhancement of the award amount.

4. Resisting the same, the second respondent filed reply statement and stated that the land which is referred by the claimant is situated at RS.No.179/9 and 182/5 as covered under LAOP.No.164 of 1985 is not similar to the claimant's land. It is far away i.e. more than 2.5 kilometers away from Marakkanam main road. It is situated very interior and having no potential house site or other value besides undeveloped and seven feet higher than Marakkanam main road level. It is also not having any civil amenities. Therefore, the value is rightly fixed for the land acquired from the claimant and fixed value at Rs.981/- per Are.

5. On hearing the rival pleadings, the court below framed point for consideration as "whether the petitioner in the above LAOP is entitled for enhanced compensation? If so, for what amount?"

6. In support of the claimant's case, P.W.1 was examined and six documents were marked as Ex.P.1 to Ex.P.6. On the side of the respondents, R.W.1 was examined and Ex.R.1 and Ex.R.2 were marked. On considering the submissions made by the learned counsel, the court below allowed the LAOP. Aggrieved by the same, the appellants have preferred this first appeal.

7. The learned counsel for the appellants would submit that the Referral Court erred in holding that both the lands which was subject matter of the LAOP.No.164 of 1985 and the present award are one and the same. The land which was situated at



RS.No.179/9 and 182/5 fell under category III of the Land Acquisition Officer award. Whereas, the claimant's land falls under the category of II of the award passed by the Land Acquisition Officer in award No.1 of 1985 dated 28.02.1985. Therefore, both lands are not situated in the nearer place. That apart, the land comprised in RS.No.180/3 is situated far away from the subject land in LAOP.No.164 of 1985. It is situated very interior and having no potential of house site and other amenities. Therefore, she sought for set aside the award passed by the court below.

8. Per contra, the learned counsel for the claimant submitted that the Referral Court acquired land and fixed value at Rs.1401/- per Are on par with the other land which was determined in LAOP.No.164 of 1985. Therefore, the award passed by the Referral Court does not warrant any interference by this Court and prayed for dismissal of the appeal suit.

9. Heard, Mr.G.Djearany, Government Advocate (Pondy) appearing for the appellants and Mr.T.Dhanyakumar, the learned counsel for respondent.

10. The subject land was acquired for the purpose of establishing Central University at Kalapet Revenue Village, Pondicherry. The total extent of 84.00.09 hectares was acquired under phase-I. In respect of the said acquisition, the second respondent herein passed award No.1 of 1985 and fixed value at Rs.234/- per Are. Simultaneously, the petitioner's land was also acquired to an extent of 01.36.00 hectares and the same land was acquired by the Acquisition Officer. On the objection raised by the land owners, referred before the Referral Court. The Land Acquisition Officer has enhanced the compensation amount from Rs.234/- per Are to Rs.1,401/- in LAOP.No.164 of 1985, in which for the land comprised in RS.No.179/9 and 182/5, the Land Acquisition Officer has not made any distinction in his award dated 28.02.1985 in awarding a sum of Rs.234/- per Are for the entire land acquired by him, without considering yardstick to minimum percentage towards the price difference between small piece of land and larger piece. That apart, the Land Acquisition Officer has failed to see that the lands in RS.No.179/9 and 182/5 falls under the LAOP.No.164 of 1985 and determined the value at Rs.1,401/- per Are. Therefore, the second respondent ought to have adopted the same yardstick for the claimant's land also. The claimant marked Ex.P6, the proceeding related to the enhancement of compensation at Rs.1,401/- in respect of land comprised in RS.No.82/2, 82/4, 82/6 and 167/7 i.e. larger extent viz., 2.53.00 hectares under phase II covered under LAOP.No.13 of 1987. Therefore, the second respondent failed to adopt yardstick of difference between small piece of land and larger piece.



11. It is also evident from Ex.P5, the judgment of this Court in AS.No.595 of 1999 dated 30.10.2002, thereby enhanced the compensation amount at Rs.1,401/- in respect of land acquired in 182/2 to an extent of 1.87.50 hectares situated at Pillaichavady Revenue Village, Pondicherry taking into consideration of the judgment and decree passed in AS.No.269 of 1992. Therefore, the Referral Court rightly determined the value at Rs.1,401/- per Are and this Court finds no infirmity or illegality in the order passed by the court below.

12. Accordingly, this first appeal is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lok

To

The Principal District Judge,
Pondicherry.

Copy To

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

+1cc to the Government Pleader, S.R.No.32663

AS.No.748 of 2015

SVI (CO)
PM/18/11/2021