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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.04.2021

Coram:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

A.S.No.130 of 2021
and
C.M.P.No.7664 of 2021

The Special Tahsildar (LA),
Petrochem Park, Unit-VII, TIDCO,
Egmore, Chennai-8. ... Appellant/Referring Officer

Vs.

1. Selvaraj, S/o Thagappa Nadar
2. The Managing Director,
The Tamil Nadu Industrial Development Corporation,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-8. ... Respondents/Claimants and R2

Appeal Suit (First Appeal) filed under Section 54 of the Land Acquisition Act against the order and decree dated 11.06.2019 in L.A.O.P.No.71 of 2016 on the file of the Subordinate Court, Ponneri.

For appellant : Mr.J.Balagopal, Spl.G.P. (A.S)

For respondents: Mr.M.Krishnamoorthi for R-1

JUDGMENT

(The Judgment of the Court was delivered by R.Subbiah, J)

The Special Tahsildar (LA), Petrochem Park, Unit-VII, TIDCO, Egmore, Chennai has come forward with this Appeal questioning the correctness and validity of the Judgment and Decree dated 11.06.2019 passed by the learned Subordinate Judge, Ponneri in LAOP No. 71 of 2016.

2. The first respondent in this appeal namely Selvaraj has filed LAOP No. 71 of 2016 before the learned Subordinate Judge, Ponneri under Section 18 of the Land Acquisition Act, 1984 seeking enhancement of the compensation amount awarded by the



appellant herein. According to the first respondent, the lands owned by him in Survey No.7/2A measuring 9 Acres and Survey No.331/2A measuring 0.08 cents, totalling 10 acres of land situated in Kattupalli Village, Ponneri Taluk, Thiruvallur District, was acquired by the appellant herein for the purpose of establishment of Petrochem Park. After complying with the formalities, the appellant passed an award fixing a sum of Rs.150/- per cent as compensation, which according to the first respondent is very low. Therefore, the first respondent has filed the LAOP No. 71 of 2016 before the Subordinate Judge, Ponneri. The Sub Court, after hearing both sides, passed the Judgment and Decree dated 11.06.2019 enhancing the compensation from Rs.150/- per cent to Rs.3,200/- per cent. Aggrieved by the Judgment and Decree dated 11.06.2019 passed in LAOP No. 71 of 2016, the present appeal is filed by the Special Tahsildar (LA).

3. When this appeal is taken up for hearing, the learned Special Government Pleader appearing for the appellant/Special Tahsildar fairly submitted that the issue involved in this appeal is covered by a judgment of a Division Bench of this Court, dated 24.06.2015 passed in A.S.Nos.45 to 59 of 2015, in which, this Court held as follows:

"All these appeals are filed by the Special Tahsildar (Land Acquisition) under Section 54 of the Land Acquisition Act, 1894, questioning the correctness of the enhancement of compensation awarded by the Land Acquisition Tribunal.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader (AS) for the appellant and Mr.R.Margabandhu, learned counsel appearing for the claimants.

3. It appears that the land of a total extent of 10.99.0 hectares situate in Kattupalli Village, Ponneri Taluk, Tiruvallur District was acquired by the Government of Tamil Nadu, for the purpose of setting up a Petro Chem Park by the Tamil Nadu Industrial Development Corporation Limited. After perusing 72 data sale deeds, the Land Acquisition Officer divided the land into two categories namely dry lands and wet lands and by separate awards, passed in Award Nos.2 to 10 of 2001 and 1 of 2002, the Land Acquisition Officer fixed a compensation of Rs.150/- per cent for dry lands and Rs.250/- per cent for the wet lands.

4. Aggrieved by such fixation of compensation, the land owners sought a reference under Section 18. By a common



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judgment delivered in L.A.O.P.Nos.26 of 2001 batch of cases, the Fourth Additional District Court, Tiruvallur at Ponneri enhanced the compensation uniformly to Rs.3,200/- per cent, without any distinction between wet lands and dry lands. Therefore, the Special Tahsildar (Land Acquisition) has come up with the above appeals.

5. Before proceeding to consider the contentions of Mr.P.Gunasekaran, learned Additional Government Pleader (AS), it is necessary to take note of one aspect. As against some of the awards passed by the Land Acquisition Tribunal, the State filed similar appeals, which came up before a learned Single Judge of this Court on account of the total value involved. By a judgment dated 12.3.2015, S.Nagamuthu,J, dismissed the appeals in A.S.Nos.18 to 22 and 61 to 67 of 2015. Hence, in so far as the very same common judgment rendered by the very same Land Acquisition Tribunal in L.A.O.P.Nos.154, 161, 163, 189 and 202 of 2002 batch of cases dated 11.3.2014, the enhancement of compensation to Rs.3,200/- per cent has been upheld by a learned Judge of this Court.

6. Keeping the above in mind, if we look at the contentions of the learned Additional Government Pleader, it is seen that the main grievance of the appellant is that the Tribunal did not even take note of the distinction between dry lands and wet lands. According to the learned Additional Government Pleader, some of the lands acquired were dry lands and some were wet lands. The Land Acquisition Officer took note of the difference in the nature of the soil and fixed different amounts. Therefore, the learned Additional Government Pleader contended that the impugned awards are clearly illegal.

7. However, it is seen from the records that the Tribunal proceeded on the basis of Ex.C.1. Ex.C.1 was a sale deed dated 8.10.1997. The Notification under Section 4(1) of the Act was issued on 18.6.1998. Therefore, Ex.C.1 sale deed dated 8.10.1997 was the closest sale deed that could have been taken into account by the Land Acquisition Officer also.



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8. The Special Tahsildar himself was examined as R.W.1. She admitted in her deposition that she fixed the market value on the basis of a sale deed dated 24.10.1996. Therefore, the Tribunal was right in rejecting the same and taking into account Ex.C.1.

9. As a matter of fact, Ponneri is on the periphery of Chennai Metropolitan City. The fixation of Rs.3,200/- per cent cannot be said to be arbitrary or of a high order. Hence, even independent of the conclusion reached by the learned Single Judge in his judgment dated 12.3.2015 in A.S.Nos.18 to 22 and 61 to 67 of 2015, we are not convinced that this is a fit case for any interference.

10. Accordingly, all the appeals are dismissed. No costs. Consequently, all connected pending MPs are also dismissed. The Additional Government Pleader will be entitled to separate fees in respect of each of the appeals."

4. The Judgment dated 24.06.2015 passed by the Division Bench of this Court in A.S.Nos.45 to 59 of 2015 pertains to the same acquisition proceedings. Therefore, following the above judgment of this Court, the present Appeal Suit (First Appeal) is also dismissed, confirming the judgment and decree passed by the Subordinate Judge, Ponneri in LAOP No. 71 of 2016. No costs. Consequently, C.M.P. is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Subordinate Judge,
Ponneri.
2. The Special Tahsildar (LA),
Petrochem Park, Unit-VII, TIDCO,
Egmore, Chennai-8.



3. The Managing Director,
The Tamil Nadu Industrial Development Corporation,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-8.

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The Record Keeper,
VR Section, High Court,
Chennai-104.

+1cc to Mr.M.Krishnamoorthy, Advocate Sr.25072

A.S.No.130 of 2021

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srg 23/09/2021