



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.11 of 2019

and

C.M.P(MD)No.8476 of 2019

WEB COPY

R.Natesan

..Appellant/Claimant

Vs.

The Revenue Divisional Officer,
Kovilpatti.

..Respondent / Referring Officer

PRAYER: Appeal filed under Section 54 of the Land Acquisition Act, 1894 r/w Order XLI, Rule 1 CPC, against the judgment and decree dated 09.02.2018, made in L.A.O.P.No.45 of 1999 on the file of Subordinate Court, Kovilpatti.

For Appellant

: Mrs.P.Jessi Jeeva Priya

For Respondent

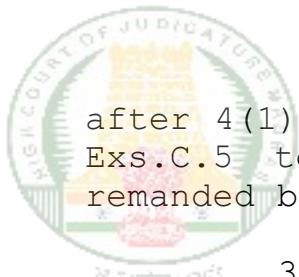
: Mr.J.Gunaseelan Muthaiah

Additional Government Pleader

JUDGMENT

Aggrieved over the order of the trial Court, fixing the compensation at the rate of Rs.3,000/- per cent for the lands acquired for the purpose of construction of BSNL Staff quarters and buildings for the Administrative Office of the Telegraphs Department in Pandavarmangalam Village, the present Appeal Suit is filed.

2. Originally, the Land in question comprised in Survey No.595/1A2 in Pandavarmangalam Village, was acquired by the Land Acquisition Officer, for the purpose of constructing BSNL Staff quarters and buildings for the Administrative Office of the Telegraphs Department and fixed the compensation at the rate of Rs.450.78/-, per cent. 4(1) notification was issued on 24.10.1985. It is to be noted that total extent of 2 acres and 13 cents were acquired. As against which, the matters were referred to the Tribunal under Section 18 of the Act, 1894. The Tribunal has decided the same in L.A.O.P.No.45 of 1999 and finally, awarded a sum of Rs.1,000/- per cent, as compensation. The above findings were challenged before this Court in A.S.(MD)No.726 of 2003 along with C.R.P(MD) No.377 of 2004 and C.M.P(MD) No.2227 of 2004, and the same was disposed of on 24.11.2010 and the Division Bench of this Court, remanding the matter to the Trial Court to consider the Exs.C5 to C10. While remanding the matter, the Division Bench of this Court, vide order, dated 24.11.2010, in paragraph No.9, through Exs.C.5 to C.10 have come into existence even



after 4(1) notification, it is not bar nor an embargo to rely upon Exs.C.5 to C.10 suitably. Accordingly, the matter has been remanded back to the Land Acquisition Tribunal.

3. After such remand, the Land Acquisition Tribunal, once again considered the entire materials and considered the additional evidence pointed out by this Court, particularly, the Land Acquisition Tribunal, took note of Ex.C.16 as model sale deed for Survey No.596/2A, dated 08.04.1987 and enhanced the compensation at the rate of Rs.3,000/- per cent. Not satisfied with the above enhancement, the present appeal suit came to be filed by the claimant.

4. The main contention of the learned counsel appearing for the appellant submitted that even in the year 1982 much prior to the 4(1) notification, the respondent themselves offered a sum of Rs.3,000/- per cent in a private negotiation. Therefore, fixing the same amount as compensation for the lands, which were acquired after two years of such Land Acquisition, is not according to law.

5. It is the further contention that the acquired land was situated within the vicinity of the well developed area. The market value of the property is more than the guideline value. Ex.C.5 and Ex.C.17 registered on the same day, though much after notification, the same indicated the fact that the value of the lands were increasing day-by-day. The same has not been taken note of by the Land Acquisition Tribunal. Hence, it is the contention of the learned counsel for the appellant that the amount of Rs.3,000/- fixed by the Tribunal is to be enhanced to a sum of Rs.4,400/- as per Ex.C.5, dated 17.07.1987. Hence, prayed for allowing the appeal.

6. The learned Additional Government Pleader appearing for the respondent would submit that Ex.C.5 and Ex.C.16 came into existence only after 4(1) notification and the trial Court also considered Ex.C.16 as a model sale deed. Hence, it is the contention of the learned Additional Government Pleader that the compensation fixed by the Tribunal is well-balanced and the order of the Tribunal does not require any interference and hence, prays for dismissal of this Appeal Suit.

7. In the light of the above submissions, now, the following points come up for consideration and they are as follows:

i) Whether the compensation fixed by the Land Acquisition Tribunal is reasonable, based on the evidence?

ii) Whether the compensation fixed by the Land



Acquisition Tribunal is liable to be enhanced ? and
iii) To what other reliefs, the appellant is
entitled?

8. Heard the learned counsel appearing for the appellant, the learned Additional Government Pleader appearing for the respondent and perused the materials available on record carefully.

9.As narrated above, this appeal is a second round of litigation. It is not in dispute that the entire area has been acquired for the purpose of construction of BSNL Staff quarters and buildings for the Administrative Office of the Telegraphs Department in Pandavarmangalam Village. At the time of acquisition, the Land Acquisition Officer has fixed the compensation, at the rate of Rs.450.78/- per cent. The same was opposed and the matters were referred to the Tribunal under Section 18 of the Land Acquisition Act, 1894. The Tribunal, in an earlier occasion, fixed the compensation at the rate of Rs.1,000/- per cent, which was set aside by this Court and remanded the matter to the Tribunal to consider all the documents, particularly, Exs.C.5 to C.10 on the ground that there is no bar nor an embargo to consider those documents.

10. Again the Tribunal, taking note of the above judgment has considered Ex.C.16 model sale deed, which relates to Survey No.596/2A and fixed the compensation at the rate of Rs.3,000/- per cent. It is to be noted that Ex.C.16, dated 17.07.1987 similarly Ex.C.5-sale deed on the same day in respect of the same survey number namely, S.No.596/2A, measuring an extent of 5.65 cents has been sold for a sum of Rs.32,799/-. Therefore, makes it clear that the concerned person had sold it for more than Rs.5,000/-. It is also to noted that Ex.C.5 and Ex.C.16 came into existence after 4(1) notification. Even de-horse Ex.C.5 and Ex.C.16 when the other materials were perused, makes it clear that in the year 1983, i.e. 20.08.1983 itself, beneficiary, the respondent / BSNL has offered to purchase the land at the rate of Rs.3,000/- per cent in a private negotiation. Ex.C.2 filed in this regard, which is also admitted by the other side. Therefore, when the market value of the land was Rs.3,000/- in the year 1983, two years prior to the notification, the land value would have certainly increased before the date of notification. This aspect has not been taken into consideration by the Tribunal.

11. In such view of the matter, this Court, taking note of the common course of natural events and in relation to the facts and circumstances of the case, hold that the value of the land would keep on increasing everyday and every time, particularly, the land within the vicinity of well-developed area.



Therefore, even in the year 1983, as per Ex.C.2, the BSNL authorities have found that the value of the land is more than Rs.3000/- and offered the same at the rate of Rs.3,000/-. This Court is of the view that the land value would have been increased by manifold thereafter. Though Ex.C.5 is after the notification, the same is evident only for the purpose to show that the land value has been increased. It is not the case of the respondent that Ex.C.5 and other documents are created only for the purpose of claiming compensation. Though the market value set out in Ex.C.5 cannot be given much importance, since it was registered after notification. The above documents can be taken into consideration for the proof of increase of value.

12. In view of the above, as already discussed, earlier, the land value per cent was Rs.3,000/- and it would have fetched more than Rs.3,000/- after three years. This Court is of the view that though there is no direct evidence as to the market value by way of documentary evidence, taking note of the value, agreed by the respondent in the year 1983, the value of the property would have increased to not less than a sum of Rs.4,000/- per cent. Therefore, keeping view of the fact that when the lands are acquired and the persons divested the title of the properties, reasonable compensation should be given to the land owners. Therefore, this Court is of the opinion that a sum of Rs.4,000/- per cent would be the proper and reasonable compensation. Accordingly, the point Nos. 1 to 3 are answered.

13. Accordingly, this Court enhanced the compensation from Rs.3,000/- to Rs.4,000/- per cent. Accordingly, the compensation fixed by the Tribunal is enhanced to Rs.4,000/-per cent. In all other aspects, the order of the Tribunal is hereby confirmed.

14. Accordingly, this Court has fixed the compensation at the rate of Rs.4,000/- per cent. The Land Acquisition Officer is directed to pay that amount with interest at the rate, as ordered by the Land Acquisition Tribunal.

15. Accordingly, this appeal suit is partly allowed with the above modification. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar (CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Subordinate Judge,
Subordinate Court,
Kovilpatti.

2.The Section Officer-2 copies
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to SPL GP (SR-6477[F] dated 22/02/2021)

+1 CC to Mrs.P.JESSI JEEVA PRIYA, Advocate (SR-6542[F] dated 22/02/2021)

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KM (12.03.2021) 5P 6C