



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S. (MD)No.162 of 2020

and

C.M.P. (MD) .No.5988 of 2020

WEB COPY

The Special District Revenue Officer (LA),
Tamil Nadu Road Sector Project-II,
Tiruchirappalli.

: Appellant / Referring Officer

Vs.

K.Naina Mohamed

: Respondent/ Claimant

PRAYER: Appeal is filed under Section 54 of Land Acquisition Act praying to set aside the judgment and decree dated 18.09.2020 made in L.A.O.P.No.1 of 2018 on the file of the learned Principal District Judge, Tirunelveli.

For Appellant

: Mr.J.Gunaseelan Muthiah
Additional Government Pleader

For Respondent

: Mr.R.J.Karthik

J U D G M E N T

This Appeal has been filed as against the order of the learned Principal District Judge, Tirunelveli, made in L.A.O.P.No.1 of 2018, dated 18.09.2020.

2. The brief facts leading to the filing of this Appeal Suit, is as follows:-

2.(1). Originally, a reference was made under Section 64 of RFCTLARR Act 2013. By a notification issued under Section 15 (2) of Tamil Nadu Highways Act, 2001, the total extent of 0.8229 Sq.m. of dry and natham lands in Thiruppanikarisalkulam Village, was acquired for widening the State Highways Road (SH-39) Tirunelveli-Sengottai-Kollam Road. The Land Acquisition Officer (Special District Revenue Officer) has fixed the market value of the land at Rs.1362/- Per Sq.m. As against the same, the matter has been referred to the Reference Court under Section 64 of RFCTLARR Act.

2.(2). It is the case of the claimant that he has purchased lands to an extent of 16.53, 1.83, 11.02 and 3.65 cents in Survey Nos.109, 114 and 106 of Tirunelveli Taluk, Tiruppanikarisalkulam Village as Plot Nos.16, 17, 18, 56, 57, 6, 7, 25, 26, 27 and 28



and constructed seven shops bearing Door Nos.2/187/1 to 2/187/7 and also houses in that place. In the above lands, totally, 290 Square meters were acquired for the purpose of widening of road. The Acquired property was situated very near to Tirunelveli-Tenkasi Main Road, which is just opposite to the Manonmaniam Sundaranar University. The cost of one cent is Rs.3,00,000/- (Rupees Three Lakhs only) at the time of acquisition. Hence, the respondent / petitioner claimed compensation of a sum of Rs.21,48,000/- (Rupees Twenty One Lakhs and Forty Eight Thousand) for 7.16 cents and he calculated Rs.8,40,000/- (Rupees Eight Lakhs and Forty Thousand only) towards loss of income and also Rs.5,00,000/- (Rupees Five Lakhs only) towards mental agony.

3. On the basis of the above facts, the Reference Court framed the following issues:-

"1. Whether the market value of the property fixed by the Land Acquisition Officer is correct?

2. Whether the claimant is entitled for more compensation than the award passed by the Referring Officer?

3. What is the compensation amount for the acquired properties?"

4. During trial, on the side of the respondent / petitioner / claimant, the respondent himself was examined as P.W.1 and Ex.P.1 and Ex.P.2 were marked. On the side of the appellant / Referring Officer, R.W.1 was examined and Exs.R.1 to R.6 were marked..

5. Considering the entire materials and evidences, the Court below partly allowed the petition filed by the respondent / petitioner with costs and fixed the compensation at Rs.34,17,584/- (Rupees Thirty Four Lakhs Seventeen Thousand Five Hundred and Eighty Four only) and also fixed the additional amount at the rate of interest of 12% per annum on Rs.4,93,725/- (Rupees Four Lakhs Ninety Three Thousand Seven Hundred and Twenty Five only) from 04.01.2015 to 15.05.2018. The appellant / Referring Officer has already deposited a sum of Rs.33,79,428/- (Rupees Thirty Three Lakhs Seventy Nine Thousand Four Hundred and Twenty Eight only). The Referring Officer was further directed to deposit the balance amount within a period of two months and on failure to deposit the balance amount within the above said period, the respondent / claimant is entitled to 9% interest from the date of claim petition till the date of Award and thereafter, at the rate of 6% interest till the deposit of the above amount.



6. Aggrieved over the same, the present Appeal is filed.

7. The main contention of the learned Additional Government Pleader appearing for the appellant is that the Court below while awarding compensation has adopted multiplier factor as 1.25 and fixed the compensation, which is against the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013). His further contention is that the acquired lands are situated within the Municipal Corporation and within eight kilometers from the nearest urban areas of Tirunelveli Municipal Corporation. Once the land is situated in the urban areas, the factor by which the market value is to be multiplied in the case of urban area shall be 1.00 as notified in SL.No.3 of First Schedule of the RFCTLARR Act, 2013. His further contention is that the Court below, instead of adopting the factors at the rate of 1.00 as per the Act, adopted and multiplied as 1.25 factor, which is against the law. Hence, he prayed for allowing the appeal.

8. Whereas, the learned counsel appearing for the respondent would submit that the Court below rightly adopted the factors at 1.25 as per the Act, since the acquired lands are situated within thirty kilometres from the urban areas. It is the further contention of the respondent that the acquired land is situated beyond eight kilometres distance from the limits of the Municipal Corporation, which has been admitted by R.W.1. In such view of the matter, the factors meant for urban areas cannot be applied in this case. The Court below has rightly dealt with the factors and arrived at the conclusion. Hence, he prayed for dismissal of the appeal.

9. The only point arose for consideration is that whether the compensation fixed by the Court below adopting the factors as 1.25 is against the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) or not?

10. I perused the entire materials.

11. The nature of the extent acquired for widening the road is not in dispute. Similarly, the location of land also is not in dispute and the lands which includes the shops and the buildings for the purpose of widening the road is also not in dispute. The court below, while considering the entire materials, particularly, the nature of the land situated which is near the Highways and also near the University, fixed the compensation by adopting 1.25 factors, as per the Act and also as per the evidence of R.W.1. It is also evident from the materials that the Government has also passed an Order in



G.O,M.S.No 27, Highways and Minor Ports (HF1) Department dated 05.03.2018 and the Clause 8 referred as follows:-

"8.The Government after careful examination have decided to accept the recommendation of the Commissioner of Land Administration (CLA) and accordingly, issue executive instructions on determination of final amount of compensation (Final Award) to be paid to the land owners as follows:-

(a)While determining the final compensation amount, in cases where the interim compensation had been fixed and allowed earlier with reference to the Orders issued in G.O.MS.No.59, Highways and Minor Ports (HF1) Department, dated 29.05.2014, in accordance with the First Schedule to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) for the compensation amount (Final) shall be determined, by multiplier factor and the factor by which the market value shall be multiplied in case the project is situated in rural areas shall be as specified in the Table below:-

Sl. No	Distance of the Project from Urban Areas	Factor by which the market value to be multiplied
1.	Within 30 Kilometres	1.25
2.	Beyond 30 Kilometres and within 50 kilometres	1.50
3.	Beyond 50 Kilometres	2.00

The factor by which the market value is to be multiplied in the case of urban Areas shall be 1.00 (one) as notified in Sl.No.3 of First Schedule of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

'Urban Area' referred to in the Table above means:-

(i).The area (including Village Panchayats) lying within the territorial limits of the Chennai Metropolitan Development Authority (CNDA);

(ii).Municipal Corporations having a population of 5 (five) Lakhs and above as per 2011 census (i.e., Madurai, Tiruchirappalli, Salem, Coimbatore and Tirunelveli Municipal Corporations, except Chennai City Municipal Corporation) and the area (including Village



Panchayats) that falls within eight kilometers distance from the limits of the Municipal Corporations.

(iii).All other Municipal Corporations, Municipalities, Town Panchayats, Cantonments and Townships;

and

(iv).any other area that may be notified as urban area by the State Government, from time to time.

(b).With regard to determination of market value in accordance with the First Schedule of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. 2013, the instructions contained in the Circular and Letter as 8th and 10th read above respectively, issued by the Additional Chief Secretary / Commissioner of Land Administration shall be adopted for guidance"

12. From the above Government Order, it is clear that when the acquired land is situated within thirty kilometres from the Corporation and the land area not falls within the urban area, the factors of 1.25 has to be taken note of while assessing the compensation. An urban area means the area which falls within the eight kilometres distance from the limits of the said Municipal Corporation. The evidence of R.W.1 itself clearly proves that the acquired land falls beyond the eight kilometres within the Municipal area. Therefore, such area cannot be termed as urban areas and the same falls beyond eight kilometres distance from the limits of the Corporation. The Court below has rightly adopted multiplier factor as per the Act. Accordingly, this Court do not find any infirmity in the order by the Court below and the compensation awarded by the Court below is only based on the evidence and law and the same does not require any interference by this Court.

13. I do not find any merits in the appeal suit and the order made in L.A.O.P.No.1 of 2018 passed by the learned Principal District Judge, Tirunelveli, stands confirmed. In the result, the appeal suit is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

1.The Principal District Judge,
Tiruunelveli.

2.The Special District Revenue Officer (LA),
Tamil Nadu Road Sector Project-II,
Tiruchirappalli.

3.The Record Keeper-2 copies
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to SGP (SR-951[F] dated 18/01/2021)

**Judgment made in
A.S. (MD) No.162 of 2020
Dated:11.01.2021**

KM (09.02.2021) 6P 6C