



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.100 of 2016

WEB COPY

Palani Thevar

... Appellant/Petitioner/Claimant

Vs.

1.Special Tahsildar,
TACID Unit-I,
Gangaikondan,
Sankarnagar-627 357.

2.Chairman and Managing Director,
TACID Unit No-I,
68, Grems Road, Chennai-6.

... Respondents/Referring
officer/ Respondents

PRAYER: Appeal Suit filed under Section 54 of the Land Acquisition Act, 1894, against the judgment and decree passed by the learned Principal Subordinate Judge-Land Acquisition Claims Tribunal (Principal Subordinate Judge), Tirunelveli, in L.A.O.P.No.91 of 1996, dated 05.01.2004.

For Appellant : Mr.S.Kumar

For Respondents : J.Gunaseelan Muthaiah
Additional Government Pleader

JUDGMENT

Aggrieved over the dismissal order of the Land Acquisition Tribunal, the present Appeal Suit has been filed by the appellant.

2. The brief facts, leading to file the appeal suit, is as follows:

An extent of 6.87.5 hectare land (roughly 16 Acres 59 cents) in S.No.1641/1B1B situated in Gangaikondan Village were acquired for Tamil Nadu Industrial Development Corporation, out of which 7 Acres are Nanja land and the remaining acres are dry Punja land. The Land Acquisition Officer has fixed the compensation at Rs.99,887/- for the acquired land, which was objected by the claimant/land owner. Therefore, reference was sent to the Land Acquisition Tribunal. Thereafter, the Land Acquisition Tribunal dismissed the claim mainly on the ground that the subject property in Ex.C7-sale deed is situated far away from the acquired lands, as against which the present Appeal Suit came to be filed.



3. Before the Tribunal, on the side of the claimant/petitioner, Exs.C1 to C7 were marked and the petitioner examined himself as P.W.1. On the side of the respondents, Exs.D1 and D2 were marked and R.W.1 was examined.

4. The contention of the learned counsel for the appellant is that Ex.C7 dated 13.11.1991 is much prior to Section 4(1) notification (03.02.1993) and Ex.C1, dated 26.05.1994, issued by the Mines and Minerals Department clearly indicates that the quarry permit was given for 3 Acres in the year 1993 itself and notice issued under Ex.C2 for private negotiation makes it clear that in a private negotiation Rs.9,000/- was offered per acre and Ex.C7 dated 13.11.1991 wherein 2 acres 20 cents were sold for Rs.43,000/- ie., Rs.13,500/- per acre. This document was never considered by the Land Acquisition Tribunal and the evidence of R.W.1 also shows that the acquired lands situated near the Tirunelveli-Madurai Main Road and many factories and industries has come up. These facts have never been considered by the Land Acquisition Tribunal. Hence, prayed for enhancement of compensation.

5. The learned Additional Government Pleader appearing for the respondents would submit that the Land Acquisition Tribunal has held that Ex.C7-properties are situated far away from the acquired lands. Therefore, non-suited the appellant and further submitted that the order of the Tribunal does not require any interference and prayed for dismissal of this appeal.

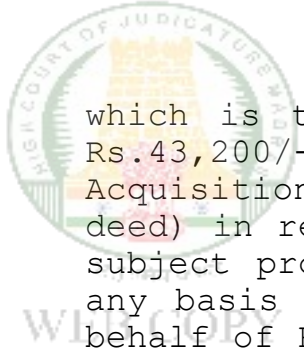
6. In the light of the above submissions, the points arise for consideration are;

"1. Whether the Land Acquisition Tribunal erred in appreciating the oral and documentary evidence properly? and

2. Whether the compensation fixed by the Land Acquisition Officer is reasonable based on the market value of the property?"

7. Heard both sides and perused the entire materials available on record.

8. It is not in dispute that 16 acres and 59 cents were acquired after issuing notice Section 4(1) notification, dated 03.02.1993. The Land Acquisition Officer has fixed the compensation of Rs.99,887/-. The acquired land consisting of both wet and dry lands which also not disputed. Ex.C1-document shows that the appellant running quarry in 3 acres in the said survey number and permit was issued by the Collector and Ex.C2-notice issued by the agent of TACIT Corporation with respect of the property, which is acquired, wherein it is stated that in private negotiation Rs.9000/- per acre is offered. PW.1 in his evidence clearly spoken about these documents. Further the properties also situated abutting to Tirunelveli-Madurai Main Road, which was also admitted by R.W.1. Further, Ex.C7 dated 13.11.1991 makes it clear that in S.No.648,



which is the nearby land, an extent of 3.20 acres were sold for Rs.43,200/- ie., per acre sold for Rs.13,500/-, whereas the Land Acquisition Tribunal has come to the conclusion that Ex.C7(sale deed) in respect of some other property, which is far away from the subject property. Such findings, in view of this Court, is without any basis and evidence. In fact, the learned counsel appearing on behalf of RW.1 has not disputed the fact that S.Nos.648 and 641 are continuous in nature as per the sketch. In such view of the matter, this Court finds that the Land Acquisition Tribunal was mechanically dismissed the claim petition, which was referred under Section 18 of the Land Acquisition Act.

9. From the above documents, this Court is of the view that even much prior to the acquisition, an acre was sold for Rs.13,500/- as per Ex.C7 and Exs.C1, C2 and C7 same together makes it clear that the compensation amount fixed by the Land Acquisition Officer is not on proper appreciation of the evidence. The portion, which is abutting the Highways or other places, which has wide access to the open area, will have a different value other than the portion, which was situated behind without any access to that area. Those facts have to be taken note of by the Courts, while fixing the value of the property. Every fact has to be decided taking note of the circumstances obtaining to the particular cases. Court should also have regard to the conduct of the people and natural course of events while considering the facts while deciding a particular issue. Even assuming that no sale deed whatsoever was produced by the party, whose lands were acquired and they become a landless at the relevant point of time, that cannot be a ground to non-suit the ordinary agriculturists, who lost their lands and they should be compensated reasonably. Even if a dry land was acquired, at the time of notification, it is relevant to note that being the State machineries, the action of the State should not affect the ordinary citizens and being the welfare State, their actions should benefit the citizens. Their actions should not be oppressive one in the name of acquiring the lands for a paltry sum. Though the right to hold the property is a constitutional right, but now the same is also recognized as a human right, such right cannot be deprived by the State, by throwing pittance in the name of compensation. State action should be reasonable without any arbitrariness. To be noted that even in dry lands, which are not fit for agricultural activities, the ordinary agriculturists even rear cattle and if they sell their cattle, it would fetch more amount than the compensation, which appears to be pittance at the relevant point of time. These facts cannot be ignored by the Court. It is a common knowledge to every one. In this case, reasonable compensation ought to have been allowed by taking into consideration of the previous sale deed particularly, Ex.C7 and even in the private negotiations, per acre of land was offered at the rate of Rs.9,000/-, which was not taken note of by the Tribunal.



10. Therefore, fixing the compensation of Rs.99,887/-for the acquired lands, ie., 16 acres and 59 cents, in the view of this Court, is unreasonable and in fact, it amounting driving the citizens in the state of landless. Such attitude cannot be encouraged by the Court of Law. Having regard to the nature of the evidence available, particularly, in this case that the lands are situate adjacent to the Tirunelveli-Madurai Main Road and some factories are also there and nearby lands are also developed, like house sites, the minimum price for the land would be not less than Rs.13,500/- per acre as per Ex.C7. In such view of the matter, this Court, taking note of the normal course of events and in relation to the facts and circumstances of the particular case and the above documents and also taking note of Ex.C7 and the evidence of RW.1 that the acquired land is abutting to Tirunelveli and Madurai Main Road, is of the view that reasonable compensation would be awarded as per the value set out in Ex.C7. Hence, this Court come to the conclusion that the order of the Land Acquisition Tribunal is not based on the proper appreciation of the documentary evidence.

11. Accordingly, the order of the Land Acquisition Tribunal is hereby set aside and the compensation is fixed at the rate of Rs.13,500/- per acre. The petitioner is also entitled to get 30% of solatium and interest at the rate of 9% per annum for the first one year period from the date of taking over possession and thereafter 12% per annum till the date of deposit of the compensation by the State in Court. The compensation and solatium shall bear interest as indicated above.

12. Accordingly this Appeal Suit is allowed. No Costs. The appellant is directed to pay the additional Court fee, if any.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 Principal Subordinate Judge,
Land Acquisition Claims Tribunal,
Tirunelveli.

2.The Section Officer, (2 copies)
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Spl GP (SR-2576[F] dated 01/02/2021)

+1 CC to Mr.S.KUMAR, Advocate (SR-2690[F] dated 01/02/2021)

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VB (03.03.2021) 5P 6C