

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	09.02.2021
Date of Judgment	12.05.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.352 of 2016

Rettamalai

: Appellant/Petitioner

Vs.

1.The Special Tahsildar (LA),
N.H.45, Trichy-Dindigul Section,
Srirengam Unit-I,
Trichy.

2.The Competent Officer,
Special District Revenue Officer,
Land Acquisition, National Highway,
Perambalur,
Trichy, Pudukottai and Tanjore District,
Office at 2nd Floor,
Old District Collector Office,
Trichirappalli.

3.The Arbitrator/The District Collector(L.A),
Collectorate,
Trichy-1.

4.The Project Director,
National Highways Authority of India,
No.44, 3rd Main Road,
Pon Nagar,
Trichy.

: Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 37 of the Arbitration Conciliation Act, 1996 against the decreetal order and fair order made by the Principal District Court, Trichirappalli, in Arbitration No.1 of 2014, dated 26.11.2015.

For Appellant	: Mr.V.Singan
For R1 to R3	: Mr.J.Gunaseelan Muthiah
For 4 th Respondent	: Mr.Arul Vadivel @ Sekar



J U D G M E N T

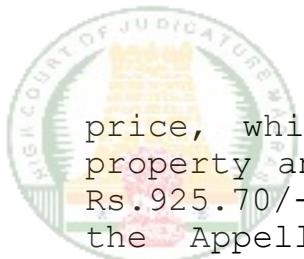
This Civil Miscellaneous Appeal is directed against the fair order and decretal order, passed by the Principal District Court, Trichirappalli, in Arbitration No.1 of 2014, dated 26.11.2015.

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2.The short facts of the case is that the property measuring 1660 sq. meters compromised in S.F.No.171/19A in Pirattiyur East Village, Srirangam Taluk, belongs to the appellant. The said property was acquired by the Government for laying of Fourways road in Trichy-Madurai National Highways No.45B. The appellant was awarded compensation of Rs.65,097/- at the rate of Rs.35.65/- per square meter and also including the compensation of Rs.5,918/- as per Section 3G(2) of the Act. As against the same, the appellant preferred appeal in A.P.No.3 of 2007 before the Arbitrator/Collector for enhancement of compensation at the rate of Rs.1,024/- per square meter. The Arbitrator/District Collector dismissed the appeal on 08.07.2003 holding that the compensation amount awarded is reasonable one. Against which, the appellant filed appeal in Arbitration O.P No.1 of 2014 on the file of the Principal District Judge, Trichy. The learned Principal District Judge, Trichy has also dismissed the appeal filed by the appellant, on 26.11.2015, confirming the award passed by the Arbitrator/Collector. Aggrieved over the same, the appellant is before this court with this appeal.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.The learned counsel appearing for the appellant/claimant argued that the acquired property is situated at Edamalaipatti within the Corporation limit of Trichirappalli and though the property is classified to be an agricultural property in the survey records maintained by the Government, but for all practical purposes, the property is capable of being developed into housing plots being situated within the Corporation limit and in proximity of the Highways and though as per the provisions of Section 3J of National Highways Act, the acquisition of Land Acquisition Act has been ousted nonetheless for the purpose of payment of compensation, the broad guidelines fixed under the Land Acquisition Act is to be taken note of by the Acquisition Authorities in granting suitable and adequate compensation and as per the provisions of Section 3G, as regards the guidelines fixed by the National Highways Act in determining the compensation, Section 3G(7)(b) & (c) is akin to the provisions of the Land Acquisition Act in the matter of payment of suitable solatium for compulsory acquisition of the property and hence, the compensation amount awarded to the appellant is far below the market value of the property and the market value of the property is not the guideline value prescribed by the Government, which is useful and valid only for the purpose of collecting stamp duty by the Government and the market value on the other hand is the



price, which a willing buyer is prepared to pay for buying the property and the appellant has claimed compensation at the rate of Rs.925.70/- per sq. mt., for which, document was presented before the Appellate Authority, namely the Principal District Court, Trichirappalli under Section 34 of the Arbitration and Conciliation Act and the Court below failed to consider the same in enhancing the compensation and prays that the Civil Miscellaneous Appeal has to be allowed. In support of his contention, the learned counsel appearing for the appellant relied upon the following judgments:-

(1) (1995) 5 SCC 433 (Municipal Committee, Bhatinda Vs. Balwant Singh);

(2) (1995) 2 SCC 305 (P.Ram Reddy Vs. Land Acquisition Officer);

(3) AIR 1996 SC 2710 (Ratnam Kumar Tandon Vs. State of U.P);

(4) 1998 (2) SCC 385 (Land Acquisition Officer, Revenue Divisional Officer Vs. L.Kamamma);

(5) (1998) 2 SCC 388 (Hasanali Walimchand Vs. State of Maharashtra); and

(6) AIR 2003 Karnataka 165 (Lalita Vs. Union of India).

5. On the other hand, the learned counsel appearing for the 4th respondent argued that the land value fixed for the appellant is the common rate for the entire village, which is feasible and possible when large chunk of land is acquired for the public purpose and the appellant's land is a cultivable dry land as per the classification on the date of acquisition and the value of the land was fixed by the 2nd respondent taking into consideration of Rs.1,106/-, sale took place during the period of one year prior to the date of land acquisition and the value fixed by the 2nd respondent at Rs.35.65/- per sq.m for dry lands duly considering the various aspects like sort, soil classification of the land and the capability of the fetching the market value, the market value ruling on the date of acquisition and also the developments reached to this area and the appellant has not filed any documentary evidence that the appellant's property was formed as plot during the time of land acquisition and on the other hand, on perusal of the case records, it was found that the property is situated interior from the National Highways Road and the property was mentioned as agricultural lands in revenue records and the Land Acquisition Officer has assessed the appellant's property at the rate of Rs.86/- and if the appellant feels that the assessment was wrongly assessed by the Land Acquisition Officer, immediately he would have given



objection before the forum with sufficient document to show that the market value was assessed during the time of acquisition, but in the present case, the appellant has not filed any document as to why the property was valid more than the rate fixed by the Land Acquisition Officer and the Court cannot sit as Appellate Forum to re-evaluate and re-appreciate the evidence of the Arbitral Tribunal to come to a different conclusion and reappraisal of evidence is not permissible under section 34 of the Act and by invoking Section 34 of the Act, the Court can only set aside the award or refuse to set aside the award, that too only on the circumstances contemplated under Sub Section 2 of Section 34 of the Act and none of the circumstances mentioned in Section 34(2) has been raised in the application filed by the applicant in the petition filed before the District Court and Section 34 of the Act has to be conjointly read with Section 5 and Section 37 of the Act and the words used in Section 37(c) of the Act has reiterated the power of the Court contemplated under section 34 of the Act that only it has power either to set aside the award or refuse to set aside the award. In support of his contention, the learned counsel appearing for the 4th respondent relied upon the following judgments:-

(1) (2006)11 SCC 181 (McDERMOTT INTERNATIONAL INC Vs. BURN STANDARD CO. LTD and other);

(2) 2009(1) MLJ 199 (M.M.T.C., through its General Manager, Chennai Vs. Vicnivass Agency, through its Partner, Thoothukudi and another);

(3) (2012)1SCC 594 (P.R.Sha, Shares and Stock Brokers Private Limited Vs. B.H.H. Securities Private and others);

(4) AIR 2017(SC) 2785 (Kinnari Mullick and another Vs. Ghanshyam Dass Damani); and

(5) Judgment made in CMA(MD)Nos.1760, 1889 and 1942 of 2013, dated 23.03.2018; (P.Bagyalakshi Vs. The Competent Authority cum Special District Reveue Officer, Tiruchirappalli and others);

6. It is seen from the records that the property measuring 1660 sq. meters comprised in S.F.No.171/19A in Pirattiyur East Village, Srirangam Taluk belongs to the appellant. The said property was acquired by the Government for laying of Fourways road in Trichy-Madurai National Highways No.45B. The appellant was awarded compensation of Rs.65,097/- at the rate of Rs.35.65/- per square meter and also including the compensation of Rs.5,918/- as per Section 3G(2) of the Act. As against the same, the appellant preferred appeal in A.P.No.3 of 2007 before the Arbitrator/Collector for enhancement of compensation at the rate of Rs.1,024/- per square meter. The Arbitrator/District Collector dismissed the appeal on 08.07.2003 holding that the compensation amount awarded is reasonable one. Against which, the appellant filed appeal in



Arbitration O.P No.1 of 2014 on the file of the Principal District Judge, Trichy. The learned Principal District Judge, Trichy has also dismissed the appeal filed by the appellant, confirming the award passed by the Arbitrator/Collector.

7. In this case, the appellant stated that the assessment was wrongly done by the concerned authority. But the appellant/complainant has not given any objection to the concerned authority immediately and no document was filed by the claimant indicating what was the market value of the property, exists at the time of acquisition. The claimant objected the assessment done by the Land Acquisition Officer. Hence, it is his bounden duty to prove that what was the market value exists. But the claimant failed to produce the document before the Land Acquisition Officer to prove what was the market value exists at the time of acquisition.

8. Further, the claimant stated that his property was formed as plots at the time of acquisition. But on the other hand, on the side of the respondents, it is stated that at the time of acquisition, the acquired property is classified as 'Agricultural Land.' No document was filed on the side of the appellant/claimant to show that the property acquired was formed as plots. On perusal of the records, it reveals that the property acquired was shown as 'Agricultural Land.' Hence, for arriving compensation, guide value was adopted by the Land Acquisition Officer. The appellant has stated that the land acquired was converted into plots. But he failed to prove it by way of filing necessary documents. Hence, the court below correctly came to the conclusion that the land acquired was agricultural land. Hence, for arriving compensation to the acquired land, the Land Acquisition Officer correctly adopted guide value of the acquired property. Hence, it is held that the compensation awarded by the both the appellate authorities are correct and it is not necessary to interfere with the impugned order passed by the court below.

9. Hence, this Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

Sd/-

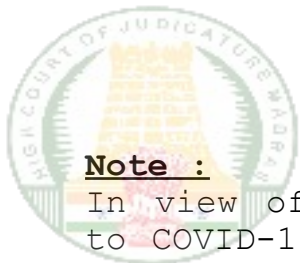
Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

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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 District Judge,
Trichy.
- 2.The Special Tahsildar (LA),
N.H.45, Trichy-Dindigul Section,
Srirengam Unit-I, Trichy.
- 3.The Competent Officer,
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- 5.The Project Director,
National Highways Authority of India,
No.44, 3rd Main Road,
Pon Nagar, Trichy.
- 6.The Record Keeper, VR Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate (SR-18530[F] dated 13/05/2021)

C.M.A(MD)No.352 of 2016
12.05.2021

SSS(CO)
TR(13.07.2021) 6P 9C