IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.03.2022
Pronounced on : 13.04.2022

C O R A M
THE HONOURABLE Mrs. JUSTICE S.KANNAMMAL

Appeal Suit No.520 of 2013
and M.P. No. 1 of 2013

The Special Tahsildar (LA),
Thoppur 400 K.V.Sub-Station, Salem,
represented by its Revenue Divisional Officer,
Mettur. ..Appellant/1st Respondent

-vs-

Chinnappa Gounder (died)

1.Valliammal
2.Rajendiran
3.Sengottaiyan
4.Sulochana ..Respondents 1 to 4/Claimants

5.The Superintending Engineer,
General Construction Circle,
Tamilnadu Electricity Board,
Manarpuram,
Trichy. ...5th Respondent/2nd Respondent

Prayer: Appeal against the order and decretal order, dated 30.11.2010, passed in L.A.O.P.No.16 of 1992 on the file of First Additional Sub-Judge, Salem.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader[AS]

For Respondents : No appearance

JUDGMENT

This Appeal is preferred by the State, aggrieved over the order passed by the I Additional Sub-Judge, Salem, in L.A.O.P.No.16 of 1992, dated 30.11.2010, enhancing the compensation from Rs.9517/- per acre (Rs.0.22 per sq.ft.) to Rs.4/- per sq.ft. for the lands acquired under Award No.2 of 1986, dated 21.03.1986.

2. According to the respondents/claimants, their lands in Survey Nos.166/3 and 167 of Karukkalvadi Village, Omalur Taluk, Salem District, were acquired by the appellant for establishment of 400 K.V.Sub-Station by Tamil Nadu Electricity Board and a meagre compensation at the rate of Rs.9517/- per acre was awarded. The compensation was received by the respondents/claimants under protest and they filed a petition for reference to Court. The sale deed relied upon by the appellant for fixing the value of the lands did not represent the true market value of the land sold under it. The land therein was sold for a higher price, but the document was purposely undervalued for evasion of stamp duty and minimizing the document expenses. The sale deed of a very low value had been selected for the purpose of determination of the value of the acquired lands at a low value. The land selected by the Land Acquisition Officer was at a distance of 1-1/2 k.m. from the lands acquired and in a different village. The existence of Salem Steel Plant very near to the lands acquired was not taken into consideration. The value of the lands had shot up in the area ever since the lands for Salem Steel Plant were acquired in the year 1972 itself. The lands acquired were in the midst of Thoppur Textile Mills, industrial area, coir rope industries, consisting of more than 100 looms, Tharamangalam, a developed town, and Steel Plant area. There were about 50 buildings of various types in the acquired area and it was a centre place for the surrounding areas. Hence, the lands acquired were capable of being converted into house sites. There were several power loom factories, rice mills, plastic pipe industries and other industries in and around the lands acquired. The lands in the area, prior to notification, were sold at the rate of Rs.10/- per sq.ft. Hence, a reference was under Section 18 of the Land Acquisition Act for award of enhanced compensation for the lands acquired.

3. Appellants/respondents filed a counter, stating that the value arrived at by the Land Acquisition Officer was true, valid and made after having considered all the true and necessary factors. Proper sale deeds, reflecting the market value, were relied upon by the Land Acquisition Officer. The lands acquired were agricultural lands and data lands selected were also agricultural lands and the same were situated in the very same locality. As the compensation awarded by the Land Acquisition Officer was reasonable, the respondents/claimants were not entitled to get any enhanced compensation. The Land Acquisition Officer had fixed the market value for the lands acquired, which was just and reasonable and reflected the true market value at the time of Section 4 (1) Notification.

4. The point that stood for consideration before the trial Court was, whether the respondents/claimants were entitled to get any enhanced compensation for the lands ?

5. During the course of trial, on behalf of the respondents/claimants, one of the claimants, namely, Sengottayan, was examined as P.W.1 and documents Exs.C-1 to C-3 were marked. On the side of appellant/respondent, one witness, by name, Mohammed Kudharathulla, Deputy Tahsildar (Election), Taluk Office, Mettur, was examined as R.W.1 and documents Exs.R-1 to R-5 were marked.

6. The trial Court, after considering the oral and documentary evidence adduced, fixed the compensation at Rs.4/- per sq. ft. for the acquired lands in question, less the amount already awarded by the Land Acquisition Officer with 30% solatium and 12% additional amount, with interest at 9% per annum on the amounts for one year from the date of possession and, thereafter, at 15% per annum till the date of deposit of the amount in the Court with costs and the said amount was ordered to be deposited within two months. Aggrieved over the same, this Appeal Suit is filed by the State, as stated above.

7. Learned Special Government Pleader, appearing for the appellant, would contend that the trial Court has failed to appreciate the matter from proper perspective, which led to the Reference being allowed and, therefore, the order passed by the trial Court is liable to be set aside. According to him, the trial Court has grossly erred in allowing the claim of the respondents/claimants on misinterpretation of facts and evidence and, therefore, the claim is liable to be rejected.

8. Though respondents have been served and their names have also been printed in the Cause List, none appeared on their behalf. Therefore, this Court proceeds to decide the matter on merit, without adjourning the matter any further, as the appeal is of the year 2013, which is about a decade old.

9. I have heard the learned counsel for the appellant and also gone through the records.

10. The point that arises for consideration in this appeal is, whether the respondents/claimants are entitled to the decree, as granted by the trial Court ?

11. On perusal of the records, it is seen that the lands nearby to the acquired lands were acquired for establishment of Salem Steel Plant in the year 1972 and, since then, the area in and around the acquired lands attained much importance and the value of it also shot up and that there was much demand for housing plots in that vicinity. It is also seen that there existed other factories, industries and residential areas situated very near to the acquired lands, which was also admitted by R.W.1, who was examined on the side of the appellant. Thus, there is no dispute that the acquired lands are situated in an important area, having high house site value and industrial belt.

12. Ex.R-3 is the Topo-sketch, showing the location of the acquired lands in Karukkalvadi Village. Exs.R-4 and R-5, which are Sales Statistics and Award respectively, if appreciated in the light of the oral evidence of C.W.1 and R.W.1, it can safely be concluded that the classification of the lands as manavari dry lands by the Land Acquisition Officer was totally incorrect, unreasonable and unjustifiable, which deprived the respondents/claimants of their right to get the substantial value for the lands acquired and the contention of the respondents/claimants before the trial Court that the lands ought to be treated as house sites for the purpose of valuation was quite acceptable.

13. As for the value to be fixed for the acquired lands, once the lands are held to be treated as house sites, the selection of data sale deed Ex.R-2 in respect of manavari dry lands by the Land Acquisition Officer cannot be said to be just and proper. Ex.R-4 is the Sales Statistics, containing the particulars of sale transactions three years prior to the date of publication of Section 4 (1) Notification, in which 286 sale transactions were taken into account in the villages of Karukkalvadi, Alagusamudram, Dasavilakku and Kongapadi. Though maximum number of sale transactions in Alagusamudram and Karukkalvadi Villages were held as house sites, they were not considered by the Land Acquisition Officer, but, instead, he selected the manavari dry land sold in Dasavilakku Village, which was one-and-a-half kilometres away from the acquired lands, as shown in Ex.R-4 at Sl.No.266, and rejected Ex.C-1 land, which was one furlong away from the acquired lands. A perusal of Ex.R-4 would show that the sales in respect of house sites are between the range of Rs.1/- and Rs.7/- per sq.ft. There is one sale shown at Sl.No.121 in the sales statistics in respect of the lands situated in Sl.No.172/B, wherein the land

is sold at Rs.4.30 ps. per sq.ft. Ex.R-3 would show that Sl.No.172 is situated on the north of Salem-Tharamangalam Road, whereas the lands acquired in Karukkalvadi are situated on the south of the road.

14. On the side of claimants, Ex.C-1 is marked through C.W.1. Ex.C-1 is the sale deed in respect of Sl.No.139/6 of Karukkalvadi Village, dated 08.06.1984. The sale therein was in respect of 1308 sq.ft. for a sum of Rs.9500/-, which worked out to Rs.7.26 per sq.ft. Ex.R-3, Topo-sketch of Karukkalvadi Village, would show that Sl.No.139/6 is situated at a few distance from the lands under acquisition, just abutting the Salem-Tharamangalam Main Road, on the northern side. Thus, by relying upon the value fetched by the sale shown at Sl.No.121 in Sales Statistics and the value fetched under Ex.C-1, it was reasonable to fix the rate at Rs.5.50 per sq.ft. for the acquired lands. However, after deducting a reasonable percentage towards losses and expenses for developing the same into layout of house sites, the trial Court rightly fixed the rate at Rs.4/- per sq.ft. towards compensation for the lands under acquisition, less the amount awarded by the Land Acquisition Officer with 30% solatium and 12% additional amount with interest at 9% per annum on the amounts for one year from the date of possession and, thereafter, at 15% per annum till the date of deposit of the amount into Court with costs. The order of the trial Court is, therefore, perfectly justified and it does not warrant any interference by this Court.

15. Appeal Suit is, accordingly, dismissed. No costs. Consequently, the connected M.P.No.1 of 2013 is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The I Additional Sub-Judge,
   Salem.

Copy to
The Section Officer
V.R.Section,
High Court,
Madras.

+1 CC to The Special Government Pleader [AS] sr 25392.

A.S.No.520/2013

NRJK(CO)
SP(10/06/2022)