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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE G. CHANDRASEKHARAN

A.S.No.49 of 2016
and
C.M.P.No.875 of 2016

The Regional Provident Fund Commissioner,
Office of the Regional Provident Fund Commissioner,
Bhavishya Nidhi Bhavan,
Dr.Balasundaram Road, Coimbatore – 641 018. ... Appellant

Vs.

1.Venkatesa Naidu
2.G.Ramakrishnan
3.G.T.Gopal
4.Thusalisammal @ Rukmaniammal
5.Revenue Divisional Officer,
Provident Fund Officers Housing
Staff Quarters Scheme,
Coimbatore – 641 108. ... Respondents

Prayer : Appeal Suit filed under Section 54 of Land Acquisition Act against the order and decree dated 13.07.2015 in L.A.O.P.No.105 of 1998 on the file of the I Additional Subordinate Court, Coimbatore.

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For Appellant	:	Mrs.R.Meenakshi
For R1 to R4 (Caveators)	:	Mr.T.A.Shagul Hameed
For R5	:	No appearance

J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

This appeal is preferred by the Requisition Body, namely, Regional Provident Fund Commission, Coimbatore, challenging the compensation that was fixed by the Reference Court in L.A.O.P.No.105 of 1998, for the lands acquired for them.

2.Pursuant to a notification, dated 01.03.1989, issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act" for brevity) and published on 22.03.1989, an extent of 3.53 acres in S.Nos.476 and 477 of Vilankurichi Village, Coimbatore North Taluk, Coimbatore, was acquired by the State for the benefit of the appellant for construction of residential quarters for the employees of the appellant.

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3.After issuance of notification under Section 6 of the Act, an Award was passed in Award No.2 of 1992 dated 27.01.1992. The Land Acquisition Officer collected details of several sales in and around the area, just two years prior to the notification that was issued under Section 4(1) of the Act. Considering more than 100 sale instances, a report in the form of table containing every detail of the sale was prepared (Report of sales statistics) and compensation was fixed by the Land Acquisition Officer at Rs.25,000/- per acre, i.e., Rs.250/- per cent on the basis of a sale exemplar, dated 08.07.1987, which is shown at Sl.No.10 of the sales statistics, registered two years prior to the notification that was issued under Section 4(1) of the Act. The sale deed that was relied upon by the Land Acquisition Officer was in respect of the land comprised in S.No.340 of Vilankurichi Village, Coimbatore North Taluk.

4.Dissatisfied with the quantum of compensation, the claimants/land owners sought for reference under Section 18 of the Land Acquisition Act. At the instance of the claimants, who are respondents in this appeal, the

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matter was referred to the I Additional Subordinate Court, Coimbatore, and the Reference Court took on file the reference in L.A.O.P.No.105 of 1998.

5.The Reference Court relied upon the same document, namely, the sales statistics, which was marked by the Land Acquisition Officer as Ex.R3. However, the Reference Court took the sale exemplar reflecting the highest value, which is in respect of the land comprised in S.No.351 of Vilankurichi Village, Coimbatore North Taluk, shown at Sl.No.100 in the sales statistics report. Considering the fact that the house site shown in Sl.No.100 has been sold at the price of Rs.23,616/- per cent, the same value was fixed by the Reference Court as market value as on the date of notification under Section 4(1) of the Act.

6.Aggrieved by the enhancement of compensation, the Requisition Department, for which the acquisition was made, has preferred the above appeal.

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7.Learned counsel appearing for the appellant submitted that the Reference Court has erroneously taken on record the sale exemplar which is in respect of the land comprised in S.No.351 of Vilankurichi Village, Coimbatore North Taluk, since the acquired lands are in S.Nos.476 and 477. The learned counsel submitted that the compensation has been enhanced from Rs.250/- per cent to Rs.23,616/- per cent for 3.53 acres and the same clearly indicates that the decision of the Reference Court is arbitrary. The learned counsel submitted that the Reference Court enhanced the compensation by 614 times and that the Requisition Body has suffered on account of such abnormal increase and hike by the Reference Court. The learned counsel appearing for the appellant submitted that the reference itself is not warranted as the application for reference was not presented before the Land Acquisition Officer within the stipulated time.

8.This Court has considered the memorandum of grounds also. Except the points which were argued by the learned counsel for the appellant, no other point was taken from the grounds of appeal. Per contra,

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counsel appearing for the claimants referred to the evidence of claimants and admission of R.W.1 and submitted that compensation fixed by Reference Court reflects the market value.

9.The land belonged to the claimants were acquired by the State for the purpose of providing residential quarters for the employees of the appellant, which is a statutory Body. It is not in dispute that the notification under Section 4(1) of the Act was issued in the year 1989 and therefore, the compensation has to be determined based on the value of the land as on the date of notification under Section 4(1) of the Act.

10.This Court has considered the entire evidence on record and the submission of counsels on either side.

11.The claimants relied upon a document of sale which is long after the notification that was issued under Section 4(1) of the Act. The Land Acquisition Officer, however, has produced before the Reference Court a copy of the Award as well the sales statistics taken for the period from

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01.05.1987 to 28.04.1989, which is marked as Ex.R3, showing the details of the sale exemplars collected by him at the time of passing of Award. Though the Land Acquisition Officer relied upon the sale exemplar which is found in Sl.No.10, the Reference Court has taken into consideration the sale exemplar that was found in Sl.No.100 in the said document Ex.R3. It is seen that a small house plot in S.No.351 in Vilankurichi Village, Coimbatore North Taluk, was sold at Rs.23,616/- per cent. In the absence of any other sale exemplar, the Land Acquisition Officer as well the claimants have to rely upon only the sale statistics as seen in Ex.R3 which was filed through R.W.1, who is the Land Acquisition Officer himself. Therefore, this Court is unable to discard the document, as the claimants as well the Land Acquisition Officer have admitted the genuineness of the document and the contents thereof.

12.The Hon'ble Supreme Court, in the case of ***Sri Rani M.Vijayalakshmamma Rao Bahadur, Ranee of Vuyyur v. Collector of Madras [(1969) 1 MLJ 45 (SC)]***, held as follows :

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"2.It seems to us that there is substance in the first contention of Mr. Ram Reddy. After all, when the land is being compulsorily taken away from a person, he is entitled to say that he should be given the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. It is not disputed that the transaction represented by Exhibit R-19 was a few months prior to the notification under Section 4 , that it was a bona fide transaction and that it was entered into between a willing purchaser and a willing seller. The land comprised in the sale deed is 11 grounds and was sold at Rs. 1,961 per ground. The land covered by Exhibit-27 was also sold before the notification, but after the land comprised in Exhibit R-19 was sold. It is true that this land was sold at Rs. 1,096/- per ground. This, however, is apparently because of two circumstances. One is that betterment levy at. Rs. 500 per ground had to be paid by the vendee and the other that the land comprised in it is very much more extensive, that is about 93 grounds or so. Whatever that may be, it seems to us to be only fair that ***where sale deed, pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the rest Unless there are strong circumstances***

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justifying a different course. In any case we see no reason why an average of two sale deeds should have been taken in this case." ***(emphasis supplied)***

The same view was reiterated by the Hon'ble Supreme Court in the following judgments also :

i. *Anjani Molu Dessai v. State of Goa and Anr. [2010 (13) SCC 710]*
ii. *Mehrawal Khewaji Trust, Faridkot and Ors. vs. State of Punjab and Ors. [AIR 2012 SC 2721]*
iii. *Himmat Singh and others v. State of Madhya Pradesh and another [2013 (16) SCC 392]*
iv. *Chindha Fakira Patil (dead) through LRs v. Special Land Acquisition Officer, Jalgaon [2011 (12) SCALE 321]*

13.Therefore, considering the judgments of the Hon'ble Supreme Court, taking a consistent view that the sale exemplar reflecting higher value should be preferred to other documents, the Reference Court, relying upon the sale exemplar showing the highest value, cannot be faulted. Though it is contended by the learned counsel for the appellant that the sale exemplar relied upon by the Reference Court is in respect of the land situated in S.No.351 and the lands acquired were in S.Nos.476 and 477 of

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Vilankurichi Village, Coimbatore North Taluk, the Land Acquisition Officer has fixed the compensation by relying upon the sale exemplar in respect of the land in S.No.340. Therefore, this Court is unable to countenance the argument of the learned counsel for the appellant as regards selection of document by the Reference Court.

14.It is to be seen that the lands that were acquired are admittedly lands which are situated within the Corporation limits of Coimbatore. Specific evidence was let in by the claimants to show that the lands in Vilankurichi Village, Coimbatore North Taluk, have developed. As a matter of fact, the evidence let in by the claimants to prove the commercial importance and potentiality of the lands acquired, has been specifically admitted by the Land Acquisition Officer in his cross-examination. It is admitted that, several industries like paper manufacturing unit, grinder manufacturing unit, companies manufacturing fibre robes, footwears, fruit and vegetable markets, departmental stores, schools, colleges and Tiruppur Textile Corporation, are in the very same locality in which the lands acquired are located. The Requisition Body has not let in any evidence

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before the Reference Court even though it was made as a party, as beneficiary of acquisition, which is liable to pay compensation. Having failed in their duty, the appellant tries to blame the Reference Court for fixing the compensation at Rs.23,616/- per cent.

15.The acquisition of land was in the year 1989 and the Land Acquisition Officer fixed the compensation at Rs.250/- per cent on the basis of the sale exemplar which is found in Sl.No.10 of Ex.R3. From the sale exemplars referred to in Ex.R3, it is seen that the Land Acquisition Officer has discarded several sale exemplars only because they were sold as house sites or they were sold on square feet basis. However, this Court is convinced that the acquired lands are in the midst of developed area capable of being used as house sites and finds that the Reference Court was right in holding that the lands acquired were developed as house sites at the time of issuance of notification under Section 4(1) of the Act. Since the acquired lands have other commercial importance, the value cannot be less than the sale exemplar that was relied upon by the Reference Court. It is always a tendency of the developers and land owners to show lesser value in sale

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deeds for the purpose of avoiding stamp duty. Therefore, this Court, in several judgments, have relied upon the judgments of the Hon'ble Supreme Court for the proposition that the sale exemplars reflecting highest market value should be preferred to any document in which the market value is lower. The contention that the enhancement is by 614 times is by wrong calculation and it is not even by 100 times. From the value of property in 2013, this Court is of the view that the claimants cannot buy back not even one tenth of land they lost under acquisition with the enhanced amount now.

16.Considering the overall circumstances, this Court is unable to interfere with the findings of the Reference Court, fixing the compensation based on the sale exemplar showing highest value.

17.However, this Court noticed that the Reference Court, while relying upon the sale deed, has not taken into account the deduction towards development. Since the sale deed relied upon by the Reference Court was in respect of a developed plot in a layout, this Court is of the view that a deduction of 30% should be allowed towards development. Therefore, the

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proper market value should be Rs.23,616/- less 30% of Rs.23,616/- towards development charges, which is Rs.16,531.20, rounded off to Rs.16,530/- per cent. Deducting 30%, this Court fixes the market value of the acquired lands at Rs.16,530/- per cent. The claimants are entitled to other statutory benefits as decided by the Reference Court, viz., 30% solatium, additional compensation in terms of Section 23(1-A) of the Act and interest as contemplated under Section 28 of the Land Acquisition Act. Except the aforesaid reduction in the market value by 30%, rest of the order and decree of the Reference Court remains confirmed.

18.The appeal is therefore, partly allowed and the order and decree of the Reference Court is modified to the extent as indicated above.

19.Learned counsel for the appellant submitted that a sum of Rs.1,00,00,000/- (Rupees One Crore Only) was deposited by the appellant pursuant to the directions by this Court at the time of granting stay. It is open to the claimants now to work out their remedy by pursuing execution proceedings. No costs. Consequently, connected miscellaneous petition is

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closed.

(S.S.S.R., J.) (G.C.S., J.)
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To

The I Additional Subordinate Judge,
Coimbatore.

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