IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

A.S.No.335 of 2010

1.Union of India
Rep. by Secretary to Government (Revenue)
Pondicherry.

2.Deputy Collector (Rev)-cum-
Land Acquisition Officer,
Karaikal .. Appellant

Vs.

Rangasamy, S/o.Narayanasamy,
31, Pulliankottai Salai,
Karaikal. .. Respondent

PRAYER : This Appeal filed under Section 54 of the Land Acquisition Act to set aside the order dated 31.10.2007 passed by the Additional District Judge, Puducherry at Karaikal in LAOP.No.78/2001.

For Petitioner : Ms.V.Usha,
Additional Government Pleader (Puducherry)

For Respondent : Ms.G.Lavanya
for Mr.T.Sai Krishnan

ORDER

This Appeal has been filed under Section 54 of the Land Acquisition Act, against the order dated 31.10.2007 in LAOP.No.78/2001 passed by the learned Additional District Judge, Puducherry at Karaikal.

2.A total extent of 3.76.50 Hectares was acquired by the Government of Pondicherry for construction of Second Market at Karaikal. The entire block of land was classified as wet land. A notification under Section 4(1) of the Land Acquisition Act (hereinafter referred as "Act"), was published on 02.06.1998. The Land Acquisition Officer considered around 200 sale deeds in respect of adjoining lands and fixed compensation at the rate of Rs.60,000/- per are, on the basis of guideline value. The award under Section 11(1) of the Act was passed on 29.09.2000.

3.Since land owners were not satisfied with the quantum of compensation, a reference under Section 18 of the Act was made and the said reference was numbered as L.A.O.P. No.78 of 2001 in which after hearing both the parties, the land value was fixed at the rate of

Rs.95,027.62/- per Are. The learned Additional District Judge of Puducherry at Karaikal relied upon the sale deeds dated 16.12.1996, 11.08.1997, 14.08.1997, 08.10.1997, 29.04.1998, 26.05.1998, 23.06.1998 (Ex.P.1 to Ex.P.9), determined the compensation at Rs.76,022/- after deducting 20% towards development charges, with interest at the rate of 12% from 24.06.1998 to 29.09.2000 along with 30% of solatium for the market value.

4.The learned single Judge of this Court in similar matters in A.S.No.518, 689, 690, 519, 521, 520, 719, 725, 715, 718, 716 & 717 of 2010 and A.S. Nos.524, 525 & 526 of 2012 & 838 of 2009 on 08.12.2020 held as follows:

> "4. ...
> *It is unfortunate to notice that the same judicial officer who decided batch of cases by fixing compensation at the rate of Rs.76,022/- per Are determined the market value in respect of four other cases at the rate of Rs.63,095/- per Are.*
> ..."

Further in the same judgment, the learned single Judge of this Court observed as follows:

"11.Several data sale deeds have been referred to. All the lands are classified as Nanjai lands. It indicates that the lands have permanent irrigation facility through Government source. However, it is admitted by both sides that the lands are not used for any agricultural purpose. This would only suggest that the entire area was developed even before acquisition and there was compulsion for the owners of the land to abandon cultivation only because of the development. It is admitted in the course of evidence that several layouts have been formed surrounding the lands acquired. The existence of developed layouts are admitted. The learned Government Pleader pointed that the lower Court has not considered the distance between the acquired lands and the lands in respect of which the sale statistics are given. As against the admission of the officials with regard to the potentiality of the lands, this Court finds no reason to fix different market value for the acquired lands than the value referred to in the sales exemplar relied upon by the reference Court.

12.The notification under Section 4(1) of the Act was published in May 1998. The document which was relied upon by the reference Court was executed in August 1997. There is a time lag of around nine months between the date *of sale deed and the notification issued under Section 4(1) of the Act. The Hon'ble Supreme Court has approved an additional increase up to 12% per year considering the steep increase in price of land. It was pointed out that the notification issued under Section 4(1) of the Act was issued in May 1998 whereas, the sale transaction was around nine months earlier to the notification issued under Section 4(1) of the Act. Considering the principle behind the view expressed by the Hon'ble Supreme Court, this Court is of the view that the submission of the learned Government Pleader to deduct 30% towards development is not helpful to the Government Pleader. It is to be pointed that the Land Acquisition Officer has failed to follow the same yardstick while fixing the value at Rs.63,095/- per Are in the other batch of L.A.O.P's.*

13.Having regard to the factors indicated above, this Court is unable to subscribe the view taken by the reference Court determining compensation by fixing market value at Rs.63,095/- per Are for the acquired lands. When the Court has accepted to fix compensation by adopting the value at Rs.76,022/- per are in respect of several cases, it is unfortunate to note that a lesser compensation is fixed in a few cases ignoring the documents and evidence relied upon *and the conclusion reached by the same Court in several cases disposed of in favour of the landlords. Having regard to the reasons stated above, this Court is of the view that there is no material irregularity or legality in the judgment and decree of the lower Court fixing market value at the rate of Rs.76,022/- per are.*

14.As a result the appeals in A.S.Nos.518, 689, 690, 519, 521, 520,719, 725, 715, 718, 716 &717 of 2010 are dismissed and the appeals filed by the land owners in A.S.Nos. 524,525 and 526 of 2012 and 838 of 2009 are allowed and the award in L.A.O.P.Nos.48,49,53 & 55 of 2001 are modified by fixing the market value at the rate of Rs.76,022 per Are. No costs. It is made clear that the claimants are entitled to statutory benefits of 30% solatium in addition to the additional interest as contemplated under Section 23(1) (A) of the Act and interest at 9% for the first one year after taking possession and 15% after the first one year of taking possession."

5.Learned Government Advocate submitted that the properties in the above Appeal Suits were also acquired for the same purpose and that the value of all these properties are one and same.

6.The trial Court had rightly arrived at the value as Rs.76,022/- and I do not find any infirmity in the orders passed by the trial Court. Moreover, I am also in total agreement with the views expressed by the learned single Judge in the aforesaid Appeals and therefore, the present Appeal fails and is dismissed. No costs.

08.11.2022

sai

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order

To

The learned Additional District Judge,
Puducherry at Karaikal.

R.HEMALATHA, J.

sai

A.S.No.335 of 2010

Dated: 08.11.2022