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A.S.No.967 of 2020 & Cross Obj.No.8 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.10.2022
PRONOUNCED ON : 30.11.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

A.S.No.967 of 2020
and
Cross Obj.No.8 of 2011
and
C.M.P.No.12457 of 2021

A.S.No.967 of 2020:

The Special Tahsildar
Land Acquisition Chennai District Unit -I
Chennai Metro Rail Ltd
Harini Towers, No.7, Conran Smith Road
Gopalapuram, Chennai – 86

... Appellant

Vs.

1.S.M.A.Rahila
2.S.M.A.Zulaiha
3.The Managing Director
Chennai Metro Rail Ltd.,
Harini Towers, No.7, Conran Smith Road



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Gopalapuram, Chennai – 86.

... Respondents

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PRAYER: This Appeal Suit has been filed under Section 54 of the Land Acquisition Act against the Judgment and Decree passed in L.A.O.P.No.12 of 2013 dated 09.12.2019 on the file of the VI Assistant City Civil Court at Chennai.

For Appellant : Mr.P.Kumaresan, Additional Advocate
General assisted by Mr.T.Chandrasekaran,
Special Government Pleader.

For Respondents : Mr.A.Sirajudeen, Senior Counsel for
Mr.K.Mahalingam for R1 and R2.

Mr.S.R.Rajagopal, Counsel for
Mr.S.R.Raghunathan for R3.

Cross Obj.No.8 of 2021:

1.S.M.A.Rahila

2.S.M.A.Zulaiha

...Cross Objectors

Vs.

1.The Special Tahsildar
Land Acquisition Chennai District Unit -I
Chennai Metro Rail Ltd
Harini Towers, No.7, Conran Smith Road
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2.The Managing Director

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Chennai Metro Rail Ltd.,
Harini Towers, No.7, Conran Smith Road
Gopalapuram, Chennai – 86.

...Respondents

PRAYER: This Cross Objection has been filed under Order XXXVI Rule 2 of the Original Side Rules, read with Section 96 read with Order XLI Rule 22 of Civil Procedure Code against the Judgment and Decree passed in L.A.O.P.No.12 of 2013 dated 09.12.2019 on the file of the VI Assistant City Civil Court at Chennai.

For Appellants : Mr.A.Sirajudeen, Senior Counsel for
Mr.K.Mahalingam for R1 and R2.

For Respondents : Mr.P.Kumaresan, Additional Advocate
General assisted by Mr.T.Chandrasekaran,
Special Government Pleader for R1.

Mr.S.R.Rajagopal, Senior Counsel for
Mr.S.R.Raghunathan for R2.

COMMON JUDGMENT

(Judgment of the Court was delivered by SUNDER MOHAN, J.)

Challenging the award passed in L.A.O.P.No.12 of 2013 on the file of V Assistant Judge (FAC), VI Assistant City Civil Court, Chennai dated 09.12.2019,



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the Special Tahsildar has filed the Appeal Suit in A.S.No.967 of 2020, praying to set aside the award passed and the Claimants have filed the Cross Objection in Cross Obj.No.8 of 2021, praying for enhancement of the compensation awarded. Parties are referred to as per their rank in A.S.No.967 of 2020. (for the sake of convenience)

2.By Section 4(1) Notification dated 24.11.2020, the land belonging to the first and second respondents in T.S.No.5634/1, 5634/2, 5634/3 in Block No.49, bearing Door No.173, Broadway Main Road, Chennai – 1, measuring an extent of 4500 sq.ft together with building consisting of ground plus two floors totally measuring an extent of 13,500 sq.ft, was acquired. The Land Acquisition Officer conducted an enquiry under Section 5 (A) of the Land Acquisition Act and passed an award based on a data sale deed and found that the first and second respondents were entitled to compensation at the rate of Rs.4328 per sq.ft. The Land Acquisition Officer found that the first and second respondents were entitled to Rs.50,69,324/- as compensation towards the building. On Reference being made by the first and second respondents in L.A.O.P.No.12 of 2013, the V Assistant Judge (FAC), City Civil Court, Chennai enhanced the value of land from



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Rs.4328/- per sq.ft to Rs.12,000/- per sq.ft. While arriving at the said value, the Reference Court took into consideration, the sale deeds marked by the first and second respondents namely Exs.C.6 to C.12. The Reference Court also held that it took judicial notice of the general trend of rise in the price of land. Since the land is situated in Chennai City where the price of land has escalated manifold, the Learned Judge was inclined to fix Rs.12000/- per sq.ft for the acquired land.

3.The Appellant / Special Tahsildar has preferred the Appeal Suit aggrieved over the value fixed by the Reference Court. The Respondents 1 and 2 have filed the Cross Objection praying for enhancement of the value fixed.

4.Mr.P.Kumaresan, learned Additional Advocate General appearing for the Appellant submitted that the award passed by the Reference Court is without any basis and even as per the documents produced by the first and second respondents, viz., Exs.C.6 to C.12, the value of the land did not exceed Rs.7000/- per sq.ft., except for the sale deed marked as Ex.C.12. The Learned Additional Advocate General further submitted that the property mentioned in Ex.C.12 is situated on the NSC Bose Road, which is incomparable. NSC Bose road is 100 metres wide,



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whereas, the property of the first and second respondents is situated on the Broadway Main Road which is a 40-metres congested road wherein, there are number of encroachments near the land belonging to the first and second respondents . The properties conveyed in Ex.C.6 sale deed and Ex. C.7 sale deed are situated in the same road where the property of the first and second respondents is situated and therefore, the Appellant has no objection if the value of the land is fixed as per the value shown in Exs.C.6 and C7 sale deeds.

5.Mr.S.R.Rajagopal, Learned Counsel appearing for the Third Respondent supported the Appellant's case and submitted that the Act provides for mechanism of fixing compensation under Sections 23 and 24 of the Land Acquisition Act. It is for the first and second respondents to establish that they are entitled to higher compensation. It is settled position of law that the burden is always on the first and second respondents to show as to how they are entitled to higher compensation and in this case, the first and second respondents have not discharged that burden and there is no error in the value fixed by the Appellant. The Learned Counsel further submitted that in the instant case, the sales statistics method was adopted in fixing the compensation and while adopting the said



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method the Appellant has taken into consideration, all the documents and ultimately found that the data sale deed was the most appropriate sale deed for considering the value of the land as the extent of the land matched with the location and extent of the land. Even according to the first and second respondents, the lands that were conveyed as Ex.C.6 and Ex.C.7 sale deeds are located in the same road and therefore, there is no reason as to why those documents cannot be treated as exemplars. Even according to the first and second respondent's version in the claim petition, the value of the property is Rs.12,000/- per sq.ft., and hence, the cross objection filed seeking enhancement of compensation is misconceived and therefore, the cross objection is liable to be dismissed. The Learned Counsel appearing for the third Respondent relied upon the following Judgments which lay down the principles relating to fixation of market value as per the guidelines provided under the Land Acquisition Acts which are as follows;

(i)Bhagwathula Samanna and Others Vs Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, Visakhapatnam (1991) 4 SCC 506.



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(ii)Smt.Tribeni Devi and others Vs Collector of Ranchi and Vice Versa

(1972) 1 SCC 480

(iii)Special Land Acquisition Officer Vs Karigowda and Others (2010) 5

SCC 708

(iv)Gafar and Others Vs Moradabad Development Authority and Another

(2007) 7 SCC 614

(v)U.P.Awas Evam Vikas Parishad Vs Asha Ram (D) Thr. Lrs and Others

(2021) SCC Online SC 250

(vi)Lal Chand Vs Union of India and Another (2009) 15 SCC 769

(vii)Special Land Acquisition Officer Vs Karigowda and Others Civil

Appeal No.3838 of 2010

(viii)Vidya Devi Vs State of Himachal Pradesh and Others (2020) 2 SCC

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(ix)D.B.Basnett (Dead), Through Legal Representatives Vs Collector, East

District, Gangtok, Sikkim and Another (2020) 4 SCC 572

(x)Union of India Vs Ramachandra and Others (2022) SCC Online SC

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(xi)National Highways Authority of India Vs Sri P.Nagaraju @ Cheluviah

and Another Civil Appeal No.4671 of 2022

6 (a).Mr.A.Sirajudeen, Learned Senior Counsel appearing for the first and second respondents submitted that the Reference court committed an error in fixing Rs.12,000/- per sq.ft., when the first and second respondents had produced documents Ex.C.6 to Ex.C.12. According to the Learned Senior Counsel, the Reference Court ought to have taken Ex.C.12, sale deed for the purpose of fixing compensation. The learned Senior Counsel submitted that the Hon'ble Apex court had repeatedly held that the higher value shown in the exemplars should be taken into consideration while fixing the market value of the property. The Learned Senior Counsel further submitted that the Reference court had rightly adopted the sales statistics method and having adopted that method, ought to have taken the value shown in Ex.C.12 sale deed which is Rs.19,000/- per sq.ft. The Learned Senior Counsel relied upon the following Judgments of the Hon'ble Apex Court,

(a)Chindha Fakira Patil (Dead) through Lrs. Vs. Special Land Acquisition Officer, Jalgaon (2011) 10 SCC 787



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(b) Mehrawal Khewaji Trust (Registered), Faridkot and others Vs. State of

Punjab and others (2012) 5 SCC 432

(c) Anjani Molu Dessai Vs. State of Goa and another (2010) 13 Supreme

Court Cases 710

6 (b).The Learned Senior Counsel further submitted that it is a matter of common knowledge that the guideline value usually does not reflect the correct market value and he relied upon the observations in the Judgments of the Hon'ble Apex Court in ***“Registrar of Assurances and Another Vs. ASL Vyapar Private Ltd.,”*** reported in ***“2022 SCC online SC 1554”*** and in ***“Government of Andhra Pradesh and Others Vs. P.Laxmi Devi (SMT)”*** reported in ***“(2008) 4 SCC 720”***. The sum and substance of the submission of the Learned Senior Counsel is that Reference court ought to have taken the value of the land at Rs.19,000/- per sq.ft., for the purpose of determining the compensation payable to the first and second respondents.

6 (c).The Learned Senior Counsel further submitted that the Reference Court had not taken into consideration the submissions as regard the value of the



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building. The Appellant has taken Rs.375/- per sq.ft., as the value of the building, whereas the value of the building shown in the sale deeds produced as exemplars is nearly Rs.900/- per sq.ft. Thus, the learned Senior Counsel submitted that the cross objection has to be allowed and enhanced compensation has to be awarded.

7.The points that arise for consideration in this Appeal Suit and the Cross Objection are as follows;

(i)Whether the land value determined by the Appellant for the acquired land at Rs.4320/- sq.ft., is justified?

(ii)Whether the sum of Rs.12,000/- per sq.ft., fixed by the reference Court in L.A.O.P.No.12 of 2013 is proper and correct?

(iii)Whether the claim of the first and second respondents that the land value has to be enhanced to Rs.19,000/- per sq.ft., can be accepted?

(iv)Whether the Land value fixed by the Appellant can be enhanced and if so, to what extent?

(v)What is the Market value to be fixed for the acquired land?

Points i to v:



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8.We have heard the Learned Additional Advocate General and the Learned Senior Counsels for the parties and perused the pleadings, oral and documentary evidence and the materials on record.

9.From the Judgments cited by the Learned Counsel on either side, the following principles emerge;

a) Sections 23 and 24 of the Land Acquisition Act provide a complete scheme and guidelines regarding the factors to be considered and not to be considered by the Court while determining the market value of the acquired land. There cannot be any straight jacket formula for the determination of the value of the market land. It would depend on the facts and circumstances of each case.

b) The first and second respondents have to lead cogent and proper evidence to establish their claim to receive higher compensation.

c) The Courts have broadly exercised the discretion by adopting different methods including,

(i)Sales Statistics method

(ii)Capitalisation of net income method

(iii)Agricultural yield basis method.



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Applying the above principles to the facts of the instant case, we find that the Reference Court has adopted the Sales Statistics method. The first and second respondents had marked seven sale deeds in support of their case for enhancement of compensation before the Reference Court and they are as follows;

S.No.	Exhibit	Extent	Value	Street
1	Ex.C.6	130.21 sq.ft.	Rs.5509/-	Broadway – Prakasam Salai
2	Ex.C.7	49.65 sq.ft.	Rs.5510/-	Broadway – Prakasam Salai
3	Ex.C.8	220 sq.ft.	Rs.6022/-	Broadway – Main Road
4	Ex.C.9	147 sq.ft.	Rs.5999/-	Broadway – Main Road
5	Ex.C.10	113.2 sq.ft.	Rs.7406/-	Thambu Chetty Street
6	Ex.C.11	406.2 sq.ft.	Rs.5510/-	Thambu Chetty Street
7	Ex.C.12	736 sq.ft.	Rs.19,701/-	NSC Bose Road, George Town

10. Admittedly, the properties mentioned in Ex.C.6 and Ex.C.7 documents are the closest to the acquired land. Both the properties are situated on the same road. The value of the property shown in these documents is Rs.5500/- per sq.ft. It is submitted on behalf of the Appellant that these two documents were not taken as data sale deeds, since the property conveyed in these two documents were much lesser in extent; The data sale deed considered by the Appellant was the exemplar sale deed since the extent matched.

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11. We find that amongst the sale deeds produced by the first and second respondents before the Reference Court, the value shown in Ex.C12 sale deed is the highest. It has to be seen whether this can be construed as an exemplar sale deed and it is in respect of a similar land. The first and second respondents have not been able to show how the land situated on the NSC Bose Road which is the property conveyed in Ex.C12 sale deed was similar to the acquired land. On the other hand, the appellant was able to show that the land in Ex.C12 sale deed was situated in the 100-metres NSC Bose Road whereas, the acquired land is situated in a different road called the Broadway Prakasam Salai, having a width of 40 metres. Hence, we are of the view that Ex.C.12 cannot be the basis for fixing the value of the land for the purpose of compensation. It is by no means a similar land. Therefore, the value shown in Ex.C.12 cannot be considered.

12.The other documents produced by the first and second respondents namely Ex.C.8 to Ex.C.11 are also properties situated in different streets. Those properties are closer to the NSC Bose road and are situated in the streets adjacent to the road in which the acquired land is situated. The learned Senior Counsel for



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the first and second respondents submitted that in all the sale deeds marked by them, the true value was not shown in order to avoid excess payment of stamp duty. We are conscious of the fact that in many cases the value shown in the sale deed does not reflect the correct market value. However, We find that the first and second respondents have not let in any evidence to determine the exact market value of the land. Therefore, we can only adopt or take into consideration, the value shown in the sale deeds of similar lands. Even as per the documents filed by the first and second respondents, barring Ex.C.12 which is not of a similar land, the highest value shown is Rs.7406/- per sq.ft., as per Ex.C.10 sale deed. The said sale took place on 07.09.2009, one year prior to the 4 (1) notification in the instant case. The Learned Additional Advocate General appearing for the Appellant had produced a rough sketch showing the details of the properties acquired and the compensation paid to the adjacent land owners. In the sketch, it is shown that Rs.6000/- per sq.ft., was paid as compensation to the adjacent land owner for the property in S.No.5635/2. Though Ex.C.6 and Ex.C.7 documents relate to the properties which are on the same road, considering the fact that the Appellant has awarded a compensation of Rs.6000/- per sq.ft., to the adjacent land owner, namely the land in S.No.5635/2, we find that the value of Rs.5500/- shown in



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Ex.C.6 and Ex.C.7 documents may not reflect the correct market value. We consider the value in Ex.C.10 as the highest of the exemplars. The Hon'ble Apex Court in ***Anjani Molu Dessai Vs. State of Goa and another*** reported in (2010) 13 ***Supreme Court Cases 710*** held as follows;

“20.The legal position is that even where there are several exemplars with Reference to similar lands, ususally the highest of the exemplars, which is a bona fide transaction, will be considered. Where however there are several sales of similar lands whose price range in a narrow bandwidth, the average thereof can be taken, as representing the market price. But where the values disclosed in respect of two sales are markedly different, it can only lead to an inference that they are with Reference to dissimilar lands or that the lower value sale is on account of undervaluation or other price depressing reasons. Consequently, averaging cannot be resorted to. We may refer to two decisions of this Court in this behalf.”

Applying the above principles laid down by the Hon'ble Apex Court, the highest value shown in the Exemplars is Rs.7406 per sq.ft in Ex.C.10 sale deed the said sale deed was executed on 07.09.2009 one year prior to the 4 (1) notification further the said property is admittedly situated in a narrower street called Thambu



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Chetty Street. Taking into consideration the fact that the acquired land is situated in a broader road and the 4(1) notification was issued one year after the Ex.C.10 sale deed was executed, we are inclined to fix 20% higher value than the value fixed in the said sale deed and accordingly fix the market value of the acquired land at Rs.9000/- sq.ft. The Reference Court has fixed the land value at Rs.12,000/- without any basis. The first and second respondents have also not established as to how they are entitled to enhanced compensation at Rs.19,000/- per sq.ft. Points i to v are answered accordingly.

13.As regards the building, we find that the first and second respondents have not shown any comparable value of similarly placed buildings. Therefore, in our view the Reference Court had rightly confirmed the value adopted by the Appellant in so far as the building is concerned.

14.For the above reasons, the Cross Objection seeking enhancement of compensation is dismissed and the Appeal Suit is partly allowed by fixing the market value of the land at Rs.9000/- per sq.ft., instead of Rs.12,000/- per sq.ft.,



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fixed by the Reference Court. No costs. Consequently, connected Miscellaneous

Petition is closed.

(V.M.V.,J)

(S.M.,J)

30.11.2022

ay/dk

Index : Yes / No

To

1.The Special Tahsildar
Land Acquisition Chennai District Unit -I
Chennai Metro Rail Ltd
Harini Towers, No.7, Conran Smith Road
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2.The Managing Director
Chennai Metro Rail Ltd.,
Harini Towers, No.7, Conran Smith Road
Gopalapuram, Chennai – 86.

3.The Section Officer,
VR Section,
High Court of Madras,
Chennai.

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**V.M.VELUMANI,J.
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