



A.S. (MD) No.45 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

A.S. (MD) No.45 of 2013

Dindigul Municipality,
Dindigul through its
Commissioner.

... Appellant/2nd Respondent

Vs.

M.L.K.Suriyan (Died)

1.S.Bhuvaneshwari

2.S.Kathir Prakash

***(R2 declared as major & R1
discharged from guardianship vide
order dated 08.04.2013)***

... Respondent 1 & 2/
Petitioners 2 & 3

3.The Revenue Divisional Officer,
Land Acquisition-Chettinaickanpatti Scheme
Dindigul.

....3rd respondent/1st respondent



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PRAYER: Appeal Suit filed under Section 54 of the Land Acquisition Act, against the judgment and decree, dated 30.09.2008 in L.A.O.P.No.15 of 1992 on the file of the Land Acquisition Tribunal (Principal Subordinate Judge), Dindigul.

For Appellant : Mr.J.Parekhkumar
For R1 & R2 : Mr.K.Guhan
For R3 : Mr.T.Viravankothai

J U D G M E N T

This Appeal Suit has been preferred challenging the judgment and decree of the learned Principal Subordinate Judge, Dindigul, dated 30.09.2008 made in L.A.O.P.No.15 of 1992.

2. The 2nd defendant is the appellant. The respondents 1 & 2 are the claimants and the third respondent is the first defendant in the suit. The claimants filed L.A.O.P.No.15 of 1992 against the appellant and the third respondent for fixing the market value of the land at Rs.150/- per sq.ft., and



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direct the respondents to pay the same with interest, solatium and interest.

However, the Tribunal has fixed a sum of Rs.85/- per sq.ft., and 30% solatium and also 12% additional compensation from the date of 4(1) Notification, dated 14.12.1988 to the date of acquisition, dated 03.01.1992. Aggrieved against the said judgment and decree, the second respondent has filed the present appeal.

3.The brief facts of the case is as follows:

L.A.O.P.No.15 of 1992 was filed by the claimants/land owners against the award passed by the Revenue Divisional Officer, Dindigul acquiring lands in survey No.1111/3-A-1 A4 to the extend of 14,955 sq.ft situated in Chettinaickanpatti Village, Dindigul Taluk, Dindigul District, which was acquired for the purpose of expansion of road. The Revenue Divisional Officer has issued the notification under section 4(1), dated 14.12.1988 and he passed an award dated 03.01.1992 at the rate of Rs.18.55/- per sq.ft., Since the land owner did not agree to the amount determined by the Revenue Divisional Officer, Dindigul, it was referred to



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the land acquisition Tribunal, namely, the Principal Subordinate Judge, Dindigul, under reference. The reference was taken on file in LAOP.No.15 of 1992.

4.Before the reference Court, the claimant claimed a sum of Rs.150/- per sq.ft., as the market value for the acquired land and produced the documents to that effect. It was also stated that the acquired land is the approach road from the main road to the new bus-stand. This property is having more value than other property. The Tribunal on appreciation of various documents took the market value at Rs.85/- per sq.ft and has awarded 30% solatium and passed an award. Aggrieved by the fixing of market value at Rs.85/- per sq.ft., the Referring Officer, namely, the Commissioner, Dindigul Municipality, Dindigul, has preferred the present appeal.

5. On the basis of the above pleadings, the learned trial Judge framed the following issues for consideration:



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(I) Whether the claimant is entitled to additional compensation, if so, what is the compensation?

6. In order to substantiate the case, on the side of the claimants, one witness was examined as PW1 and eight documents were marked as Exs.A1 to Ex.A8. On the side of the respondents, two witnesses were examined as D.W.1 and D.W.2 and 15 documents were marked as Ex.B1 to Ex.B15.

7. After completing the trial and on hearing of arguments advanced on either side, the learned trial Judge, considered the evidence available on record and decreed the LAOP as stated above.

8. The learned counsel appearing for the appellant would submit that the respondents 1 & 2/claimants have already objected the award fixed by the Acquisition Officer and they submitted an undertaking letter, dated



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27.02.1985 and the same was marked as Ex.B2. The respondents 1 & 2/claimants have submitted a letter, dated 30.07.1987 stating that they have not claimed any further compensation against the award passed by the Land Acquisition Officer. Though the Land Acquisition Officer has fixed a sum of Rs.18.55 per sq.ft., the learned Sub-Judge, Dindigul, without any materials erroneously fixed a sum of Rs.85/- per sq.ft., The land in that area has been sold out maximum only at Rs.40.25 paise and Ex.A3 is just 1 ½ month prior to the 4(1) Notification of the acquisition of the claimants land that has been created for the purpose of getting higher compensation. The Tribunal failed to consider the document relied on by the appellant under Ex.B1 to Ex.B15.

9. The learned counsel for the appellant would further submit that at the relevant point of time, the land value was only less then the amount fixed by the Land Acquisition Officer and therefore, the Land Acquisition Officer has rightly fixed the rate by considering the data land collected at the relevant point of 4(1) Notification. After issuing the 4(1) Notification,



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only in order to get higher compensation, the claimants have created a document. Therefore, it is a settled proposition of law that the compensation has to be fixed based on the market value prevailing in the locality during the relevant period of 4(1) Notification. Therefore, prior to 4(1) Notification, the rate of land in and around the subject matter of land is only below Rs.15/- per sq.ft., No documents would show that the subject matter of land is Rs.85/- per sq.ft., This fact has not been considered by the Tribunal and the Tribunal has erroneously fixed a sum of Rs.85/- per sq.ft. Therefore, the appeal has to be allowed and the judgment and decree of the Tribunal has to be set aside and the award passed by the Land Acquisition Officer has to be confirmed.

10. The learned counsel appearing for the respondents 1 & 2/claimants would submit that the land acquired by the Land Acquisition Officer in T.S.No.1111/3A1A4 measuring an extent of 14955 sq.ft., for the purpose of expansion of scheme road of Dindigul Municipality. 4(1) Notification was issued as early as on 14.12.1988 and publication was made



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on 08.01.1989. The value of the land fixed by the Referring Officer was very low. The Referring Officer has adopted the value in respect of a property for which, sale transaction took place on 20.06.1988 to fix the lowest value. The value mentioned in the said sale deed does not represent the actual market value and the adoption of the said value by the Referring Officer as the data land is nothing but a grievous error committed by the Returning Officer.

11. The expansion of the road, frontage proximity of the land to the main road and other vast developments which have occasioned in the nearby lands and areas, have not been taken into consideration by the Referring Officer. The Land Acquisition Officer has not considered all these vital factors while arriving at the market value and has adopted the lowest value for the reasons best known to him. The appellant has marked the letter, dated 30.07.1987 given by the claimants and in that letter, they have stated that they are ready to receive the compensation as per law. But, they never gave up their right to challenge the award passed by the



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Acquisition Officer. Further, he would submit that the land acquired was the very prime locality for the purpose of expansion of bus-stand, especially, to connect the road from Bus-stand to Railway Station, which is a prime locality and after establishment of the bus-stand, in and around the said place, various hospitals, star hotels and other commercial buildings have come up. The Land Acquisition Officer has not fixed the fair compensation. The said land also would get more profitable income by setting up a commercial building, like, hotels, shopping complex and hospitals. On 15.07.1988, 50% of the building constructed in the land in Survey No. 1111/3A1A was sold at the rate of 53.80 per sq.ft., and that sale deed was marked as Ex.A3 and that was not considered by the Acquisition Officer and fixed a sum of Rs.18.55/- per sq.ft. It is very low. Therefore, he filed claim objection before the Tribunal. The Tribunal has fixed a sum of Rs.85/- per sq.ft., which is also low. Even the claimants filed cross-objection before this Court and the same is pending. Therefore, the award passed by the Tribunal has to be enhanced and the order passed by the Land Acquisition Officer has to be dismissed.



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12. Heard the learned counsel appearing for the appellant, the learned counsel appearing for the respondents, perused the pleadings, issues framed by the trial Court, oral and documentary evidence adduced and produced by both parties.

13. Admittedly, the respondents 1 & 2 land was acquired for the purpose of expanding the road between Bus-stand and the road to Railway Station. All the buses have to leave from the bus-stand and passes only through this land. Admittedly, 4(1) Notification was issued on 14.12.1988 and publication was made on 08.01.1989. The Land Acquisition Officer has made an enquiry and collected all the data lands documents and placed before the Referring Officer and thereafter, they fixed the compensation at Rs.18.55 per sq.ft., Challenging the same, the respondents 1 & 2 filed a claim petition before the Tribunal. The Tribunal enhanced the compensation at Rs.85/- per sq.ft., Challenging the enhancement of award passed by the Tribunal, the Land Acquisition Officer has filed the present appeal before this Court.



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14. The learned counsel for the appellant would submit that the respondent has submitted a letter, dated 30.07.1987 stating that they will not claim any further compensation against the award passed by the Land Acquisition Officer, but the Tribunal has failed to consider the said undertaking letter under Ex.B9. Under protest only, the respondents 1 & 2 have agreed to accept the compensation and in that letter, they have not stated that they will not claim any further compensation. A perusal of the evidence and documents produced by both parties, would show that admittedly, 9 documents were collected and the Acquisition Officer, by considering on of the documents, has fixed the compensation at Rs.18.55/- per sq.ft., Whereas, from the data lands collected by the Officer, item No.9 of the documents, was not dealt with by the Officer while passing the award. In the said document, market value was fixed at the rate of Rs.53.80 per sq.ft., and that sale deed was marked as Ex.A3 and that was not properly considered by the Acquisition Officer and fixed a sum of Rs.18.55 per sq.ft.



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15. Considering the fact and on reading of the entire evidence, it is not in dispute that the land was acquired for expansion of bus-stand to connect the Railway station road. It is a prime locality and as contended by the learned counsel for the first respondent that nearby land in both side, now somany commercial buildings, hospitals, star hotels and commercial complex are there. At the relevant point of time, it was not developed, but subsequently, the area has been developed. The acquired land even at the relevant point of time itself situated in hart of the city of the Dindigul Town, nearly, old bus-stand, District Court, Government School, Cinema Theatres. Potentiality of the land has not been considered by the Referring Officer as well as the Acquisition Officer and fixed a compensation at the rate of Rs.18.55/- per sq.ft. Considering the land, which is prime locality, the market value fixed by the Acquiring Officer is very low. However, the Tribunal also without considering the fact that on 15.07.1988, 50% of the building constructed in the land in Survey No.1111/3A1A was sold at the rate of 53.80 per sq.ft., and that sale deed was marked as Ex.A3, fixed a sum



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of Rs.85/- per sq.ft., However, the document referred to for fixing the enhancement is an unregistered document and other documents are related to the lands nearby the acquired land. The land acquired is for expansion of road to connect the road from Bus-stand to Railway Station. Even fixing the land value, it could be taken only at the time of notification. However potentiality of the land has also to be consider, whereas, in this case land acquired is in the centre part of the city and that cannot be equated with the land acquired in the barren land for the National Highways, which is far away from 50 kms away from the Town. If the land is nearby bus-stand and centre locality in the town, commercial building would be constructed and multi-storeyed building either for commercial or for hospital or hotel would be constructed. Though the Tribunal fixed the market value without any corresponding documents by considering the facts of the prime locality, where the land is situated, this Court finds that the award passed by the Tribunal is just and fair compensation, even though does not correspond to the data land collected by the Returning Officer and there is no merits in the appeal.



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16. Accordingly, this appeal is dismissed. No costs. The judgment and decree passed by the Principal Sub Court, Dindigul is confirmed. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

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To

1. The Land Acquisition Tribunal
(Principal Subordinate Judge), Dindigul.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.

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