



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

A.S.(MD)No.26 of 2018

WEB COPY

S.Pushparajan

Appellant/Claimant

Vs.

The Revenue Divisional Officer,
Tirunelveli

Respondent/Referring Officer

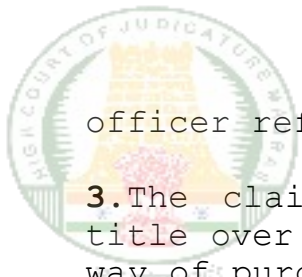
PRAYER: Appeal Suit is filed under Section 96 of the Civil Procedure Code, against the fair and decreetal order passed in L.A.O.P.No.8 of 2010, dated 31.08.2017, on the file of the Principal Subordinate Court, Tirunelveli.

For Appellants	: Mr.S.Balasubramanian
For Respondent	: Mr.C.Satheesh
	Government Advocate

J U D G M E N T

This Appeal Suit has been preferred challenging the order passed in L.A.O.P.No.8 of 2010, dated 31.08.2017, on the file of the Principal Subordinate Court, Tirunelveli.

2.The appellant is the claimant. The reference was made under Section 18 of the Land Acquisition Act, 1894, by the Land Acquisition Officer (Revenue Divisional Officer), Tirunelveli; by notification issued under Section 4(1) of Land Acquisition Act, total extent of 0.45.0 Hectares in Survey No.178/1B in V.M.Chatram Village was sought to be acquired for the formation of Bypass road by Highways and Rural Works Department; the notification under Section 4(1) of Land Acquisition Act was approved in G.O.Ms.No.866 P.W (H.R.2), Department, dated 04.06.1993; it was notified in two Tamil daily newspapers Kumari Murasu and Dhinathanthi on 25.06.1993; the notification was published in locality also; the lands were inspected by Assistant Collector and enquiry was conducted under Section 5(a) of Land Acquisition Act on 19.04.1994, 20.04.1994 and 21.04.1994; the declaration under Section 6 of the Land Acquisition Act approved on G.O.Ms.No.714, P.W (HR-2), Department, dated 12.07.1994; the Revenue Divisional Officer passed the award on 12.07.1996; the land Acquisition Officer took note of about 107 sale deeds within a period of one year and took into account one sale deed and fixed the market value of the land as Rs.1,47,607.20/- at the rate of Rs.3,28,016/- per hectare; the claimant, who is the owner of 10 cents land in survey number 178/1B sought for reference under Section 18 of Land Acquisition Act and so the land acquisition



officer referred this matter to the reference Court.

3.The claimant filed a claim statement stating that he acquired title over house plot measuring 10 cents in the Survey No.178/1B, by way of purchase through a sale deed, dated, 01.06.1982; in pursuance of 4(1) Notification, dated 23.06.1993, an award was passed on 12.07.1996; in the suit property, the claimant constructed a foundation by spending Rs.25,000/-; the property is situated within 300 feet from highway Tiruchendur road junction; it is nearby to Tirunelveli Medical College and Medical College Hospital; the acquired land is situated in residential area; there are hotels, houses, shops and industries are located in the vicinity of the property; now the cost of the land is Rs.7,00,000/- per cent; no notice was served upon the claimant, till the year 2007; hence, the market value of the land should be fixed by taking into consideration the market value prevailed in the year 2007 and also the potential value of the house site and its future utility value; the compensation amount was not deposited by the land Acquisition Officer, under Section 31(2) of the Act; only after 14 years after the 4(1) Notification, the land was measured for the purpose of bye pass road; on coming to know about the acquisition, the claimant sent notice to the Revenue officials on 10.02.2006. The acquisition was made without giving notice to the claimant and hence it is illegal; the market value for the suit property ought to have been fixed at Rs.1,00,000/- per cent; hence, the compensation has to be enhanced in accordance with the market value prevailed on the date, when the claimant got the knowledge.

4.The learned Presiding Officer has framed the following points for determination:-

- i. Whether the market value of the acquired property fixed by the Land Acquisition Officer is correct?
- ii. Whether the claimant is entitled for enhanced compensation?
- iii. Whether the reference is barred by limitation?
- iv. What other reliefs?

5.During the enquiry proceedings, on the side of the claimant, two witnesses were examined as CW 1 and CW 2 and 18 documents have been marked Ex.C.1 to Ex.C18.

6.Considering the submissions and the materials available on record, the learned judge of the reference court has fixed the compensation for the subject land at Rs.11,320/- per cent, along with interest at the rate of 12% from the date of notification i.e 17.07.1993, till the date of award 12.07.1996. The claimant was also allowed to get 30% solatium under Section 23(2) of Land Acquisition Act. The claimant was also allowed to get interest at the rate of 9% per annum from the date of possession for one year and thereafter at the rate of 15% per annum for the excess amount awarded as above along



with interest. Aggrieved over the same, the claimant has preferred this Appeal Suit.

7.The learned counsel for the appellant/claimant submitted that even the records of the revenue would show that notice was not served upon the claimant, and the claimant came to know about the acquisition only in the year 2006 and thereafter he issued notice to the Collector; but the reference Court instead of fixing the compensation at the market rate prevailed on the date of knowledge, had fixed the compensation on the basis of the market value existed on the date of acquisition; no compensation was awarded towards compound wall put up surrounding the subject land; hence, the compensation should be fixed at Rs.1,00,000/- per cent, totalling to a sum of Rs.10,00,000/-.

8.The learned Government Advocate submitted that it was not established from the records that notice was not issued to the claimant in time before 19.09.2006. The compensation awarded by the reference Court is very fair and hence, the award of the reference court does not require any interference.

9. Based on the above submissions, I feel that the following point for consideration is essential to decide this Appeal Suit.

1.Whether the compensation awarded is fair and proper?

10.The title of the claimant for the subject land measuring 10 cents in Survey No.178/1B was not disputed. The only contention of the claimant is that he came to know about the acquisition only in the year 2006 and only thereafter, the reference proceedings has been initiated and even the records of the revenue would show that no notice was served upon him and hence the reference court ought to have taken into consideration of the market value prevailed in the year 2006. It is seen from the order of the reference court that there is no proof produced before the Court that notice under Section 12(2) was served upon the claimant. The compensation amount has been fixed on the basis of the sale deeds of the year 1993, which is obviously the year of acquisition. But the order of the reference Officer does not disclose why the claimant was not suited to get the compensation fixed at the rate of market value prevailed on the date of acquiring the knowledge about the acquisition.

11. The claimant has not produced any documents to show about the market value of the property existed in the year 2006. Whatever may be the evidence on record, the learned trial judge ought to have rendered a finding as to why the claim of the claimant for compensation on the basis of the market value prevailed on the date of knowledge was denied. Since the claimant has raised the material point for consideration during the reference proceedings and it was not dealt by the reference court, I feel that it is appropriate to



remand the matter to the reference court itself for fresh consideration by permitting the claimant to submit additional evidence if any. Thus, the point for consideration is answered accordingly.

12. In the result, this Appeal Suit is disposed by remanding the matter to the reference court for fresh consideration. The claimant is at liberty to produce additional documents, if any, forthwith, before the reference court and the learned trial judge shall receive the same and dispose the matter afresh in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Principal Subordinate Court, Tirunelveli.

2.The Revenue Divisional Officer,
Tirunelveli

Copy to

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.SPL GP (SR-12717[F] dated 17/03/2022)

JUDGMENT MADE IN
A.S.(MD)No.26 of 2018
16.03.2022

pk(CO)

TR(09.06.2022) 4P 6C