



C.R.P.Nos.2490 of 2022 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.09.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.Nos.2490, 2491, 2512, 2506, 2496, 2493, 2507, 2514, 2494, 2495,
2508 and 2511 of 2022 and
C.M.P.Nos.12909, 12917, 12866, 12922, 12927, 12869, 12865, 12920,
12858, 12875, 12904 and 12862 of 2022

C.R.P.No.2490 of 2022

The Project Director
National Highways Authority of India
Ennore-Chennai Port Connectivity
Guindy, Chennai – 32
presently at
Sri Tower, 3rd floor,
DP 34 (SP) Industrial Estate,
Guindy, Chennai - 32

... Petitioner in CRP No.2490 of 2022

Vs.

1. M/s Alcargo Global Logistics Limited
T.H.Road,
Ernavoor, Chennai – 600 057

2. The Special Tahsildar (LA)
Thiruvottiyur – Ponneri, Panchetty
Salai Schemes
Ponneri

...Respondents in CRP No.2490 of 2022



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Prayer in C.R.P. No.2490 of 2022

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Order and decree passed in L.A.O.P.No.53 of 2013 dated 10.06.2019 on the file of learned Subordinate Judge, Ponneri,

CRP No.2490 of 2022

For Petitioner : Mr.Su.Srinivasan

For Respondents : Mr.Najeeb Usman Khan for
Mr.P.J.George for R1
Mr.S.P.Karthik
Government Advocate for R2

COMMON ORDER

Since the issue involved in all the Revision Petitions are one and the same, they are taken up together and a common order is being passed.

2. Heard the learned counsel on either side and perused the documents placed on record.

3. In these cases, the lands situated in No.46, Ernavoor Village in the taluk of erstwhile Ambattur and now Madhavaram taluk in the District of Tiruvallur measuring an extent of 01 Hectare 52 Ares and 28.05 sq.meters



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and the land situated in No.47, Thiruvottiyur village in Madhavaram Taluk in the District of Tiruvallur measuring an extent of 01 Hectare 88 Ares and 09 Sq.Meters registered in the name of or occupied by the persons specified in the petition therein has been notified at pages 1 to 3 & Pages 1 and 2 Extraordinary to Part II Section 2 (No.333) (No.373) respectively of Tamil Nadu Government Gazette dated 05.11.2008 and 17.12.2008 respectively for improving and widening to four lanes of Ennore – Express way and development of adequate road connectivity to Chennai and Ennore ports. The land was acquired under Tamilnadu Highways Act, 2001 after issuing notice under Section 5(2) to the interested persons, the compensation was determined in Ernavoor at Rs.353/- per sqft., and Thiruvottriyur at Rs.500/- per sqft., in Award No.4/2010 dated 23.08.2010 and Award No.3/2010 dated 30.07.2010 with other benefits. As against the petition preferred by the claimants seeking for enhancing the compensation, the learned Subordinate Judge, Ponneri has passed an order by fixing the land value as Rs.1,050/- per square feet, Aggrieved over the same, the petitioner / National Highways Authority of India, Chennai has come up with the present Revision.

4. The learned counsel for the petitioner would submit that the court



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below committed grave error by enhancing the 100% compensation than the original award fixed by the District Collector, i.e., from Rs.353/- to Rs.1,050/- per sq.ft., with other statutory benefits. Further, the District Collector had fixed the compensation by gathering 236 sales statistics after discarding documents, which are dissimilar to the acquired land, away from 1.6 km etc., thereby determined Rs.353/- per sq.ft., for Ernavur Village.

5. The learned counsel for the petitioner submits that the court below committed grave error in the calculations. The court below relied of Ex.C.1, which is for a sale consideration of Rs.15,00,000/- for 2,431 square feet and the same works out to Rs.617/- per square feet and 25% deduction towards development works out to Rs.154/-, therefore, after deducting 25% (Rs.617/- - Rs.154/-) the value per square feet is Rs.463/-, whereas the court below had calculated and fixed Rs.585/- per sq.ft., after deduction of 25% and the same is without any basis and erroneous. That apart, the court below committed further grave error in fixing Rs.1,050/- per square feet though determined Rs.585/- per sq.ft., without any reason, therefore pleaded to set aside the same.



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6. On the contrary, the learned counsel appearing for the claimants submits that the cost of the land shall be at Rs.5,000/- per sq.ft., prior to the date of notification acquisition. The acquired land is situated adjacent to Chennai City and the same has been included within the jurisdiction of Chennai Corporation. The Thiruvottriyur Municipality and local bodies are also very near to the acquired land and the claimant is entitled to get enhanced compensation for the loss of income. The lands acquired are adjacent to the already existed 2 lane road and hence there was very good income to the owners of the commercial buildings put up by them, thereby pleaded to dismiss the present Revision.

7. The learned counsel for the Referring Officer submits that the land owners requested compensation for Rs.5,000/- sq.ft., and even Rs.10,000/- per square feet and they have not produced any document to prove the same. Further, the prices fetched for small plots cannot form safe base for determination of market value large area of lands, as they are not comparable properties.

8. On a perusal of the order passed by the court below it is seen that



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the claimants have filed the document, viz., Ex.C.1 [Sale Deed dated 09.10.2007] and the petitioner has filed Ex.R1 [Project Director, National Highways Authorities Letter dated 05.09.2014] before the court below for reference. The court below has taken Ex.C.1, which is a sale deed no.4777/2005 dated 31.08.2005 wherein Vellavoyal Chavadi Village in S.No.223/1 to an extent of 2431 was sold for Rs.15,00,000/- and in addition to that consequential benefits were also granted. Further, the court below while relying on Ex.C.1 had held that 25% of the market value towards roads, power lines, etc, are to be deducted and thereafter determined Rs.585/- per sq.ft., but however fixed Rs.1,050/- per square feet, which in the considered opinion of this Court, requires interference.

9. It is no doubt true that Ex.C.1 is after the issuance of notification and only that exhibit has been marked on the side of the claimant. As per the same, 2431 Square feet was for a sale consideration of Rs.15,00,000/- and the same works out to Rs.617/- per square feet and 25% deduction towards development works out to Rs.154/- Therefore, after deducting 25% (Rs.617/- - Rs.154/-), the value per sq.ft., comes to Rs.463/- However, the court below has taken into consideration Ex.C.1 and fixed a sum of Rs.1,050/- as land



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value, which is exorbitant and without any basis.

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10. While dealing with a similar case, the **Hon'ble Supreme Court in Bikulal Kedarmal Goenka Vs. State of Maharashtra reported in (2016 (4) SCC 279)** held that the market value of the acquired land cannot be more than the value of the exemplar. Therefore, determining the market value by the court below more than the exemplar sale deed (Ex.C.1) is legally unsustainable and contrary to the dictum laid down by the Hon'ble Supreme Court.

11. Taking note of the Judgment passed by the Hon'ble Supreme Court mentioned supra and considering Ex.C.1, which is for a sale consideration of Rs.15 Lakhs for 2431 Square feet and the same works out to Rs.617/- per sq.ft., coupled with the fact that after deducting 25% towards development charges (Rs.617/- - Rs.154/- = Rs.463/-) accordingly, this Court is inclined to fix a sum of Rs.463/- per square feet, as a land value.

12. In view of the above, the present Civil Revision Petitions are disposed of with the following directions, consequently, connected



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miscellaneous petitions are closed. No costs.

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(i) The petitioner shall calculate the amount by fixing a the land value as Rs.463/- per square feet and shall disburse the amount to the claimant(s) within a period of three months from the date of a receipt of copy of this order.

(ii) Except the above said modification, the order passed by the court below remains unaltered. The claimants are entitled to all the statutory benefits.

(iii) The learned Advocates appearing for Government Authorities are entitled for separate court fees.

29.09.2023

Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order

ssd



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V.BHAVANI SUBBAROYAN, J.,

ssd

To

1. M/s Alcargo Global Logistics Limited
T.H.Road,
Ernavoor, Chennai – 600 057
2. The Special Tahsildar (LA)
Thiruvottiyur – Ponneri, Panchetty
Salai Schemes
Ponneri
3. The Special Tahsildar (LA)
Thiruvottiyur – Ponneri, Panchetty
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