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C.R.P.Nos.747, 751 & 752 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.Nos.747, 751 & 752 of 2021

and

C.M.P.Nos.6173, 6177 & 6178 of 2021

C.R.P.No.747 of 2021

1. The Land Acquisition Officer and
District Collector,
Kancheepuram District.

... Petitioner

Vs.

P.Naazhippan (died)

1. Andal
2. Selvi
3. Raghu
4. Sreedhar
5. Amul Mary
6. Thiyagu

... Respondents

7. The Divisional Engineer,
Highways, Chengalpattu.

... Beneficiary



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C.R.P.No.751 of 2021

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1. The Land Acquisition Officer and
District Collector,
Kancheepuram District.

... Petitioner

Vs.

1. M/s.Lake County Developers,
represented by its Managing Partner
Thiru.Siva Rama Prasad
No.23H, Kathiravan Salai
Neelankarai, Chennai.

... Respondent

2. The Divisional Engineer,
Highways, Chengalpattu.

... Beneficiary

C.R.P.No.752 of 2021

1. The Land Acquisition Officer and
District Collector,
Kancheepuram District.

... Petitioner

Vs.

1. Ganesan
2. Kuppan
3. Venkatesan
4. Keliammal

... Respondents

5. The Divisional Engineer,
Highways, Chengalpattu.

... Beneficiary



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Prayer in C.R.P.No.747 of 2021 : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 21.03.2017 made in LAOP.No.7 of 2015 on the file of the Additional Subordinate Judge, Chengalpattu.

Prayer in C.R.P.No.751 of 2021 : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 21.03.2017 made in LAOP.No.5 of 2015 on the file of the Additional Subordinate Judge, Chengalpattu.

Prayer in C.R.P.No.752 of 2021 : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 21.03.2017 made in LAOP.No.8 of 2015 on the file of the Additional Subordinate Judge, Chengalpattu.

For Petitioner in all CRPs : Mr.T.Chandrasekaran
Special Government Pleader

For Respondents in all CRPs : Mr.J.Ram



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COMMON ORDER

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These Civil Revision Petitions have been filed against the judgment and decree dated 21.03.2017 made in L.A.O.P.Nos.8/2015, 5/2015 & 7/2015 on the file of the Additional Subordinate Judge, Chengalpattu.

2. The petitioner herein is the respondent / referring officer in L.A.O.P.Nos.8/2015, 5/2015 & 7/2015 filed by the respondents herein seeking enhancement of compensation awarded in Award No.7 of 2013 dated 30.04.2013 by the District Collector, Kancheepuram.

3. The brief facts of the case as averred in LAOP are as follows :

i) The petitioners in LAOP.No.8 of 2015 are the owners of the land comprised in Survey Nos.183/1B1, 183/7A, 181/13A2, 183/8, 181/13B2, 181/18B2 in Kelambakkam Village, Thiruporur Taluk to an extent of 1680 sq.meters. The land in Survey Nos.181/17B, 181/18A2, 182/1B, 182/2B, 183/2, 183/3, 183/4, 183/5, 183/6 to an extent of 2023 sq.meters in Kelambakkam Village stands in the name of the petitioner in



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LAOP.No.5 of 2015. Similarly, the land in Survey No.181/19 to an extent of 359 sq.meters stands in the name of P.Nazhiappan, and after his demise, the land is owned by his legal heirs / petitioners 2 to 7 in LAOP.No.7 of 2015.

ii) The petitioners have stated that they purchased the above said property under a registered sale deed for valuable consideration. They have made lot of improvements in the property. The Government notified the acquisition of land under notice dated 08.09.2010 and instructed the petitioners to surrender their possession of land and building for the formation of IT Corridor Six Lane Ways Scheme. The petitioners made representation before the Collector, and on his instruction, the representation was handed over to the Special Tahsildar (LA), IT Corridor Scheme, by stating that the market value of the property in Kelambakkam Village is more than Rs.10,000/- per sq.ft. Therefore, their land has to be assessed on that basis.

iii) The petitioners have further stated that the property acquired by the Government is nearby Bus Stand, Railway Station, Urbanization way



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and Sub Collectorate Office at Kancheepuram and the road is having 100 feet FSI and it is situated in commercial zone. Because of this acquisition, the shape of the remaining land is changed and it becomes in Triangular shape and lost its value. The authorities did not consider the two sale deed documents which was produced by the petitioners along with representation and passed very low compensation and unjustifiable award. While determining the amount of compensation, the market value on the date of passing order should be considered but the authority did not comply any rule. Therefore, they prayed to fix a sum of Rs.10,000/- per sq.ft as compensation.

4. A counter was filed by the respondents in the above LAOP by stating that the land acquisition authority followed all the formalities and with the knowledge of the petitioners only, they fixed the compensation as per rule. The objection raised by the petitioners and sale documents produced by them were considered by the authority and the final publication was affected for fixing compensation. There are 333 sales have been taken place during the period from 13.03.2006 to 12.03.2009 and out of the above sale statistics Serial No.314 of Sale Statistics



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statement of Kelambakkam Village was taken as data for determining the

land value for the acquired land. The sale was taken in Survey No.62/6

has been sold for Rs.6,30,000/- vide Doc.No.8847/2008 dated

10.12.2008 at Thiruporur Sub Registrar Office which works out to

Rs.252/- sq.ft. As Serial No.314 reflects the correct value of land that

value was taken for consideration. Then award was passed on 30.04.2013

and entire acquisition in Kelambakkam Village was concluded. It is well

settled preposition of law that public interest should outweigh private

interest. The land had been acquired for public purpose of formation of

Railway bridge to create lot of transportation to the public which is

sensational requirement. The all developments cited by the petitioners are

developed due to the formation of this road and therefore the claim of the

petitioners is not acceptable.

5. The Learned Additional Subordinate Judge after hearing the parties concerned and in reference to the data land submitted by either parties which are documentary evidences has ordered as follows :

(i) The compensation fixed by the Referring Officer at the rate of Rs.2,713/- per sq.meter is ordered to be enhanced



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to Rs.14,812/- per sq.meter with 30% solatium along with interest at the rate of 12% p.a. on solatium.

(ii) Any sum already paid towards the compensation has to be deducted from the total sum if it is already received by the claimants.

(iii) The claimants are entitled to get the additional market value at the rate of 12% p.a. from the date of notification under Section 15(2) of the Tamil Nadu Highways Act, till the date of taking possession.

(iv) Further the claimants are entitled 9% p.a. interest on the excess amount for the 1st year from the date of taking possession and 15% p.a. interest for subsequent years till the date of deposit.

(v) It is also further ordered that the expenses incurred by this Court for sending notice to the claimants should be deducted at the time of issuance of cheque to the claimants.

(vi) It is further ordered that, the claimants are entitled for the cost of the proceedings.

(vii) It is further ordered that, except the above



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mentioned claims, with regard to other aspects, the determination for the Land Acquisition Officer is confirmed.

(viii) Time for payment of the enhanced claim 2 months.

6. Aggrieved by the said order of the Learned Subordinate Judge at Chengalpattu, the present revision petitions have been filed by the petitioner herein i.e. the Land Acquisition Officer and District Collector.

7. The Learned Special Government Pleader appearing for the petitioner has submitted that the Award No.7 of 2013 dated 30.04.2013 ought to have been confirmed as the award was passed in conformity with the data lands that were taken as referral value for fixing the compensation. When the authority has fixed the right value at Rs.2,713/- per sq.meter, enhancing the compensation to an exorbitant rate of Rs.14,812/- per sq.meter is in violation of the procedures prescribed under the Land Acquisition Act, 1984.

8. The Learned Special Government Pleader has also submitted that the Land Acquisition Officer has rightly taken the relevant sale deed



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prior to Section 15(2) Notification dated 12.03.2009 and only after analysing all the transactions as per the data sale collected by him has rightly fixed the market value at Rs.2,713 per sq.meter.

9. The Learned Special Government Pleader has further submitted that the Lower Court has failed to consider that the respondents have only marked Ex.C1 and as per the said document, the market value of the land is only Rs.8,985/- per sq.meter, but the Lower Court without any proper reason has enhanced the compensation from Rs.2,713/- per sq.meter to Rs.14,812/- per sq.meter which is exorbitant and has to be set aside.

10. The learned counsel appearing for the respondents would reiterate the averments made in their claim petitions and sought for dismissal of these petitions.

11. Heard the Learned Special Government Pleader appearing for the petitioner and the learned counsel appearing for the respondents, and perused the materials available on record.



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12. On considering the submissions made and the documents relied on by the counsel on either side, this Court proceeds to determine as to whether the compensation enhanced by the Learned Additional Subordinate Judge, Chengalpattu in L.A.O.P.Nos.8/2015, 5/2015 & 7/2015 is excessive or insufficient. The acquisition relates to the present revision petitions is for the formation of IT Corridor Six Lane Ways Scheme i.e. to widen the existing Old Mahabalipuram Road into Six Lane. After the I.T. Companies came into existence in the Old Mahabalipuram Road at Chennai, no doubt, the value of the lands in and around the OMR has increased manifold.

13. On perusal of the common award dated 21.03.2017 passed in Award No.7 of 2013 for arriving or fixing the compensation at Rs.2,713/- per sq.meter, it is seen that the authorities have conducted a survey in the lands involved in the acquisition and inspected the field sketch. For determining the amount as compensation, statistics were gathered from 13.03.2006 to 12.03.2009 i.e. 3 years prior to the date of publication of 15(2) notification from the Sub Registrar Office, Thiruporur. There are 333 sales have been taken place during the said



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period in Kelambakkam Village. Out of which, the land in Serial No.314, an extent of 2503 square feet, in Survey No.62/6 in Kelambakkam Village, has been sold for Rs.6,30,000/- vide Doc.No.8847/2008 dated 10.12.2008, which was taken as a data sale deed and worked out to Rs.252/- per square feet. As far as the other sales are concerned, which were either sold as house site or for lower amount, Land with building, UDS, Combined sales. The authorities have concluded that the sale in Serial.No.314 reflected the correct value of the land and therefore it was taken as data land and the compensation was fixed at Rs.252/- per square feet or Rs.2,713/- per square meter for the lands under acquisition and they have rightly fixed the compensation to be paid for the acquired lands to an extent of 20,228 square meters at Rs.2,713/- per square meter or Rs.252/- per square feet.

14. It is further seen from the award that on reference being made by the authorities, the claimants i.e. the respective landowners have filed claimants' side documents before the Additional Subordinate Judge, Chengalpattu, which are Exs.C1 to C4 Sale deeds. Ex.C1 Sale deed is with respect to the property in Survey Nos.148/1, 148/2, 149/1 and 149/2



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to an extent of 3500 square feet and Ex.C2 Sale deed is with respect to the property in Kelambakkam Village which is adjacent to the Village in Survey Nos.123/1, 132/2A, 124, 125/1A1, 125/1A2, 125/2A, 125/2B1, 125/3 totally to an extent of 3 Acres 60 cents. Ex.C3 is with respect to the property in Kelambakkam Village which is adjacent to the Village in Survey No.244 - 4 Acres 11 Cents, Survey No.245 - 1 Acre 33 Cents totally to an extent of 5Acres 44 Cents. Ex.C4 is with respect to the property in Kelambakkam Village which is adjacent to the Village in Survey No.15/1 (Part), 14/4 (Part) totally to an extent of 1 Acre 50 Cents.

15. On going through the Judgment and Decree rendered by the Learned Additional Subordinate Judge, Chengalpattu, this Court finds that Ex.C2 is the document to be considered as data land as far as the Additional Subordinate Judge is concerned. However, the said document was inadvertently mentioned as Ex.C1 instead of Ex.C2 in all occurrences of the orders of the Learned Subordinate Judge and the same has to be rectified by this Court. The amount fixed by the District Collector, Kanchipuram at Rs.2,713/- per square meter for the acquired land is absolutely incorrect and which is too low for the commercial zone that is



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situated in the Old Mahabalipuram Road at Chennai.

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16. The Learned Subordinate Judge, while enhancing the compensation, has taken Ex.C2 which is the sale deed dated 10.09.2008 with respect to the property in Kelambakkam Village which is adjacent to the land in question of acquisition. The Ex.C2 pertains to the land to an extent of 3 Acres 60 Cents and the land mentioned in Ex.C2 has been sold at the rate of Rs.14,812/- per sq.meter. The Learned Subordinate Judge has arrived at Rs.14,812/- per sq.meter as against Rs.2,713/- fixed by the District Collector at Kanchipuram.

17. This Court is inclined to accept the fixation of compensation by the Learned Subordinate Judge for the reason that as per Ex.C2, the land to an extent of 3 Acres 60 cents in the adjacent Kelambakkam Village has been sold for Rs.21,60,00,000/- viz., it has been valued at Rs.14,812/- per square meter. It is to be noted that the acquired lands are situated in prominent area within the close vicinity to Chennai city where the cost of the land has been increasing rapidly and hence the enhancement of compensation by the Learned Subordinate Judge to the



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above extent is appropriate and the same need not be interfered with.

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18. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.03.2023

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Index : yes/no

Internet : yes/no

To

1. The Additional Subordinate Judge, Chengalpattu.
2. The Land Acquisition Officer and District Collector, Kancheepuram District.
3. The Divisional Engineer, Highways, Chengalpattu.

V.BHAVANI SUBBAROYAN.J.,



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