



C.R.P.No.1215 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.No.1215 of 2021

S.N.Rajkumar

... Petitioner

Vs.

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

2. The Divisional Engineer,
Construction & Maintenance,
Chengalpet.

... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to enhance the compensation from Rs.31,271/- per sq.meter to Rs.50,033/- per sq.meter with all attendant benefits passed in LAOP.No.6 of 2015 dated 28.04.2017 on the file of the Subordinate Judge, Chengalpattu.



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For Petitioner : Mr.J.Ram

For Respondents : Mr.T.Chandrasekaran
Special Government Pleader

ORDER

This Civil Revision Petition has been filed against the judgment and decree dated 28.04.2017 made in LAOP.No.6 of 2015 on the file of the Additional Subordinate Judge, Chengalpattu.

2. The petitioner herein is the claimant in LAOP.No.6 of 2015 filed for enhancement of compensation awarded in Award No.12 of 2013 dated 30.09.2013 by the District Collector, Kancheepuram.

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

i) The petitioner is the owner of the land comprised in Survey No.242/1B in Kazhipattur Village, Thiruporur Taluk, Kancheepuram District, to an extent of 1080 sq.meters. He has stated that he purchased the property under a registered sale deed for valuable consideration. He has made lot of improvements in the property. The Government notified



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the acquisition of land under notice dated 08.09.2010 and instructed the petitioner to surrender his possession of land and building to an extent of 1080 sq.meters for widening the Old Mahabalipuram Road. The petitioner made representation before the Collector, and on his instruction, the representation was handed over to the Special Tahsildar (LA), Radial Road Scheme, Tambaram, by stating that the market value of the property in Kazhipattur Village is more than Rs.10,00,000/- per cent. Therefore, his land has to be assessed on that basis.

ii) The petitioner has further stated that the property acquired by the Government is nearby OMR Road 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 petitioner 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, he prayed to fix a sum of Rs.10,00,000/-



per cent as compensation.

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4. A counter was filed by the respondent in the above LAOP by stating that the land acquisition authority followed all the formalities and with the knowledge of the petitioner only, they fixed the compensation as per rule. The objection raised by the petitioner and sale documents produced by him was considered by the authority and the final publication was affected for fixing compensation. There are 484 sales have been taken place during the period from 27.12.2005 to 26.12.2008 and out of the above sale statistics Serial No.27 of Sale Statistics statement of Kazhipattur Village was taken as data for determining the land value for the acquired land. The sale was taken in Survey No.159 has been sold for Rs.2,80,00,000/- vide Doc.No.3643/2006 dated 21.04.2006 at Thiruporur Sub Registrar Office which works out to Rs.738/- per sq.ft. As Serial No.27 reflects the correct value of land that value was taken for consideration. Then award was passed on 30.09.2013 and entire acquisition in Kazhipattur 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



IT Cardiyar way to create lot of transportation to the public which is sensational requirement. The all developments cited by the petitioner are developed due to the formation of this road and therefore the claim of the petitioner 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.7,944/- per sq.meter is ordered to be enhanced to Rs.31,271/- 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 claimant.

(iii) The claimant is entitled to get the additional market value at the rate of 12% p.a. from the date of notification under Section 4(1) of the Land Acquisition Act, till the date of passing of the award.



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(iv) *Further the claimant is entitled to interest 9% p.a. on the excess amount for the 1st year from the date of taking possession and interest at 15% p.a., for the 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 claimant should be deducted at the time of issuance of cheque to the claimant.*

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

(vii) *It is further ordered that, except the above 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 petition has been filed by the petitioner herein / claimant.



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7. The learned counsel for the petitioner has submitted that the Learned Judge, having noted that very low amount has been granted by the Tahsildar, ought to have substantially enhanced the amount corresponding to the present market value of the property, for which, the courts have sufficient jurisdiction. Further, he has submitted that the Learned Judge, having noted that the Land Acquisition Officer fixed the compensation at the lowest level, ought to have sufficiently compensated the owner of the property since the valuable right of liberty of holding a property of an individual has been divested by the Act of State.

8. The learned counsel for the petitioner has further submitted that the Learned Judge, having discussed in detail about the value of the land that are taken from neighbouring places, ought to have added weightage considering the prime locational advantages which the property had. Also, he has submitted that the learned Judge ought to have granted higher compensation considering the fact that the prestigious Old Mahabalipuram Road (OMR) crosses in Kazhiputhur only and Kazhiputhur is literally within Chennai Metropolitan Development



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Authority Limits and it is the next village after Sozhinganallur, which comes under the Chennai City Corporation Limits.

9. The Learned Special Government Pleader appearing for the respondent has submitted that the Award No.12 of 2013 dated 30.09.2013 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.7,944/-, per sq.meter, The question of enhancing the compensation to an exorbitant rate of Rs.50,033/- per sq.meter is in violation of the procedures prescribed under the Land Acquisition Act, 1984.

10. The Learned Special Government Pleader has also submitted that the Land Acquisition Officer has rightly taken the relevant sale deed prior to Section 15(2) Notification dated 26.12.2008 and only after analysing all the transactions as per the data sale collected by him has rightly fixed the market value at Rs.7,944/- per sq.meter.

11. The Learned Special Government Pleader has further submitted that the Ex.C1 sale deed relied on by the petitioner is from



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different village i.e. Egattur Village, but without considering the same, the Lower Court has enhanced the compensation from Rs.7,944/- per sq.meter to Rs.31,271/- per sq.meter.

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

13. 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.No.6 of 2015 is insufficient or excessive. The acquisition relates to the present revision petition is for the formation of IT Corridor way i.e. to widen the existing Old Mahabalipuram Road. 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.



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14. On perusal of the award dated 30.09.2013 passed in Award No.12 of 2013 for arriving or fixing the compensation at Rs.7,944/- 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 27.12.2005 to 26.12.2008 i.e. 3 years prior to the date of publication of 15(2) notification from the Sub Registrar Office, Thiruporur. There are 484 sales have been taken place during the said period in Kazhipattur Village. Out of which, the land in Serial No.27, an extent of 37,932 square feet, in Survey No.159 has been sold for Rs.2,80,00,000/- vide Doc.No.3643/2006 dated 21.04.2006, which was taken as a data sale deed and worked out to Rs.738/- 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.27 reflected the correct value of the land and therefore it was taken as data land and the compensation was fixed at Rs.738/- per square feet or Rs.7,944/- 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 45,382 square meters at



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Rs.7941/- per square meter or Rs.738/- per square feet.

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15. It is further seen from the award that on reference being made by the authorities, the claimant i.e. the respective landowner has filed claimant's side documents before the Additional Subordinate Judge, Chengalpattu, which are Exs.C1 to C3 sale deeds. Ex.C1 Sale deed is with respect to the property in Survey No.15/1 part to an extent of 107 cents punja land and Survey No.14/4 part to an extent of 43 cents punja land situated in 1km radius from the acquired land. Exs.C2 and C3 are the village maps of Kazhipattur and Agathoor Village which show the acquired lands are situated in Commercial Zone.

16. On going through the Judgment and Decree rendered by the Learned Additional Subordinate Judge, Chengalpattu, this Court finds that Ex.C1 is the document to be considered as data land as far as the Additional Subordinate Judge is concerned. The amount fixed by the District Collector, Kanchipuram at Rs.7,944/- per square meter for the acquired land is absolutely incorrect and which is too low for the commercial zone that is situated in the Old Mahabalipuram Road at



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Chennai.

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17. The Learned Subordinate Judge, while enhancing the compensation, has taken Ex.C1 which is the sale deed dated 08.08.2007 with respect to the property which is adjacent to the land in question of acquisition. The Ex.C1 pertains to the punja land to an extent of 107 cents and the land mentioned in Ex.C1 has been sold at the rate of Rs.31,271/- per sq.meter. The Learned Subordinate Judge has arrived at Rs.31,271/- per sq.meter as against Rs.7,944/- fixed by the District Collector at Kanchipuram.

18. This Court is inclined to accept the fixation of compensation by the Learned Subordinate Judge for the reason that as per Ex.C1, the land to an extent of 107 cents in the adjacent Kazhipattur Village has been sold for Rs.19,00,00,000/- viz., it has been valued at Rs.31,271/- 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. The respondents / referring officers had fixed very low compensation for the acquired lands and only considering the same, the Learned Judge has enhanced it to Rs.31,271/-



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per sq.meter from Rs.7,944/- per sq.meter. Since the claim of the petitioner was already considered and the compensation fixed by the Learned Judge is found to be proper and appropriate, this Court is not inclined to interfere with the same.

19. Accordingly, this Civil Revision Petition is dismissed. No costs.

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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