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A.S.Nos.952 and 953 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17/8/2023

C O R A M

The Hon'ble Mr.Justice R.SUBRAMANIAN

A N D

The Hon'ble Mrs.Justice KALAIMATHI

A.S.Nos.952 and 953 of 2020

a n d

C.M.P.Nos.1348, 13382 of 2020

2300 of 2022 and 6766 of 2023

K. Balu

...

Appellant in both the suits

Vs

1. The Land Acquisition Officer and
Special Tahsildar (Land Acquisition)

Kancheepuram Unit

Chennai Metro Rail Ltd

Chennai 600 086.

2. C. Jayaraman

3. Madurai

4. Jayaraman

5. The Chairman

Chennai Metro Rail Limited

Admin Building

CMRL Department

Poonamallee High Road

Koyambedu

Chennai 600 107.

...

Respondents in A.S.No.
952 of 2023

(Impleaded the fifth respondent vide, order of
Court dated 28/2/2023 made in C.M.P.No.
5120 and 5123 of 2022 in A.S.Nos.
952 and 953 of 2020 by SVNJ & RKMJ)



A.S.Nos.952 and 953 of 2020

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1. The Land Acquisition Officer and
Special Tahsildar (Land Acquisition)
Kancheepuram Unit
Chennai Metro Rail Ltd
Chennai 600 086.
2. C. Jayaraman
3. Chithirai
4. Jayaraman
5. Madurai
6. The Chairman
Chennai Metro Rail Limited
Admin Building
CMRL Department
Poonamallee High Road
Koyambedu
Chennai 600 107.

...

Respondents in A.S.No.
953 of 2023

(Impleaded the sixth respondent vide, order of
Court dated 28/2/2023 made in C.M.P.No.
5120 and 5123 of 2022 in A.S.Nos.
952 and 953 of 2020 by SVNJ & RKMJ)

Prayer in A.S.No.952 of 2020: Appeal filed under Section 54 of the Land Acquisition Act, to set aside the common judgments and decrees passed in L.A.O.P.No.39 of 2011 dated 15/11/2019 on the file of the Subordinate Judge, Tambaram.

Prayer in A.S.No.953 of 2020: Appeal filed under Section 54 of the Land Acquisition Act, to set aside the common judgments and decrees passed in L.A.O.P.No.5 of 2012 dated 15/11/2019 on the file of the Subordinate Judge, Tambaram.



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A.S.Nos.952 and 953 of 2020

For appellant	...	Mr.A.S.Balaji for Mrs.Thenmozhi Shivaperumal in both the appeals
For respondents	...	Mr.T.Chandrasekaran Special Government Pleader for R.1 in both the appeals R -2 – Unclaimed in A.S.No.952 of 2020 R.2 and R.3 – Unclaimed in A.S.No.953 of 2020 R.3 – Served. No appearance (in A.S.No.952 of 2020) R.5 – served. No appearance in A.S.No.953 of 2020 Ms.S.Nandhini Devi for Mr.R.Subramanian for R.4 in both the appeals Mrs.Rita Chandrasekar for R.5 in A.S.No.952 of 2020 and for R.6 in A.S.No.953 of 2020

COMMON JUDGMENT

(Judgment of the Court was delivered by
Mr.Justice R.SUBRAMANIAN)

While A.S.No.952 of 2020 has been filed against the judgment and decree in L.A.O.P.No.39 of 2011, a reference was made under Sections 31 and 32 of the Land Acquisition Act, 1894, A.S.No.953 of 2020 has been filed against L.A.O.P.No.5 of 2012, a reference was made under Section 18 of the Land Acquisition Act.



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2. The first claimant in both the LAOPs is the appellant. An extent of about 128.0 sq.m of land, situate in T.S.No.66 of Alandur Village was acquired by the Chennai Metro Rail Limited, vide, Notification issued under Section 4 (1) of the Land Acquisition Act, 1894 by the Chennai Metro Rail. Since there were disputes regarding the title to the property in question and there were rival claimants, the Collector made a deposit before the Sub-Court, Alandur and reference was made, under Sections 31 and 32 of the Land Acquisition Act, 1894. Subsequently, another reference was also made, under Section 18 of the Land Acquisition Act, in L.A.O.P.No.5 of 2012.

3. The first claimant placed his claim on Ex.C.13 viz., Town Survey Land Register and the fact that he had exercised ownership of the land by settling the said land in favour of his wife. The second and third claimants in L.A.O.Ps contend that they are in possession of the land and the original revenue records stand in their name. Therefore, they are entitled to the compensation. The fourth claimant contend that he had purchased the property from one Vaithiyalinga Chettiar under a Sale Deed dated 10/3/1982 and he has been in possession of the property by making out the same. He



has also pleaded that he has initiated Rent Control proceedings against the second claimant, in L.A.O.P.No.5 of 2012, who is the father of the third claimant and had taken possession in execution of the order of eviction passed by the Rent Control Authority. He would also plead that since the second and third claimant trespassed into a portion of the subject property, fourth claimant has filed a suit in O.S.No.78 of 2004, before the District Munsif Court, Alandur, for declaration of title and recovery of possession which was also decreed in his favour. He would also point out that the appeal against the said decree in O.S.No.78 of 2004 in A.S.No.42 of 2009 came to be dismissed on 29/6/2017. Therefore, according to the fourth claimant, the property/subject matter of acquisition belonged to him and hence he is entitled to the compensation. A reference under Sections 30 and 31 of the Act, in L.A.O.P.No.39 of 2011 and a reference under Section 18 in L.A.O.P.No.5 of 2012 were taken up and came to be disposed of by a common judgment.

4. The learned Subordinate Judge on the evidence available concluded that the fourth claimant is the owner of the lands and the learned Judge also enhanced the award amount from Rs.18,14,591/- to Rs.47,52,415/-. It is not in dispute that the Chennai Metro Rail has accepted



the award and has deposited the award amount into Court. Aggrieved by the decision of the learned Subordinate Judge, the first claimant has come up with the appeal.

5. We have heard Mr.A.S.Balaji, learned counsel for the appellant, Ms.S.Nandhini Devi, learned counsel for the fourth respondent, Mrs.Rita Chandrasekar, learned counsel for the fifth respondent in A.S.No.952 of 2023 and Mr.T.Chandrasekaran, learned Special Government Pleader (CS) for the first respondent.

6. Though the third respondent in A.S.No.952 of 2020 and fifth respondent in A.S.No.953 of 2020 were served, none appeared. Notice to the second respondent in A.S.No.952 of 2020 and second and third respondents in A.S.No.953 of 2020 has been returned unclaimed. Hence service is deemed sufficient.

7. Mr.A.S.Balaji, learned counsel appearing for the appellant would vehemently contend that the learned Sub-Judge was not right in rejecting Ex.C.13 on conjunctures and surmises. He contended that once in Town Survey Land Register, S.No.66/1 stood in his name, the learned Judge was



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not justified in concluding that the fourth claimant/fourth respondent is the owner of the property.

8. Contending contra , Ms.Nandhini Devi, learned counsel appearing for the fourth respondent would submit that the revenue records cannot be evidence to the title. She would point out that she has filed documents to show that property stood in the name of her predecessors, viz., Vaithialinga Chettiar and Manickkam Chettiar and that subsequently, the revenue records were mutated in his name. She would also point out that the records obtained under the Right to Information Act has been produced to show that S.No.66 was sub-divided into 66/1 and 66/2 and the land acquired was allotted in S.No.66/2 and the remaining extent of 110 sq.meters was allotted as S.No.66/1. Therefore, according to the learned counsel, the learned Subordinate Judge was justified in concluding that the fourth respondent is the owner of the property and that he is entitled to the compensation award. Being a reference under Sections 30 and 31 of the Act, both the Chennai Metro Rail and the **acquiring authority** are only formal parties.

9. We have considered the rival submissions.



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10. As rightly pointed out by the learned counsel for the fourth respondent, revenue records cannot be treated as a document of title. Moreover, the learned Subordinate Judge has pointed out as to how Ex.C.13 cannot be relied upon. He has stated that the extent of land found in the document, does not tally with the total extent of S.No.66 and he has pointed out that the total extent of land, as claimed by the first claimant, the appellant herein was not available at all in the said Survey number. In paragraph 16 of the judgment, the learned trial Judge has adverted to the claim of the appellant and explained as to how it is preposterous. If the claim of the appellant is to the extent of lands in S.No.66 would be 421 sq.ft., whereas the actual available extent is 2483 sq.ft. Moreover, the document that has been produced by the fourth respondent herein, viz., the sale deed, the prior revenue records as well as the subsequent revenue records would conclusively establish that the fourth respondent is the owner of the property. We are therefore, to follow, with the learned Subordinate Judge for having concluded that the fourth respondent is the owner of the property, we find no case for interference in A.S.No.952 of 2020 which stands dismissed.



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11. Insofar as Appeal Suit No.953 of 2020 is concerned, since the appellant is not the land owner, he cannot question the enhancement of compensation made by the Subordinate Court, the same will also have to be dismissed and accordingly, the same is dismissed.

12. Now that the appeals stand dismissed, the fourth respondent will be at liberty to withdraw the amount that has been deposited before the Sub-Court. Parties are directed to bear their own costs. Consequently, the connected Miscellaneous Petitions are closed.

(R.K.M.,J) (R.S.M.,J)
17th August, 2023

mvs.

Index: Yes/No

Neutral Citation: Yes/No

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