IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

A.S.No.503 of 2017

1. Anjappa
2. Venkatesappa
3. Papamma ...Appellants

-Vs-

1. Special Tahsildar, (LA),
   SIPCOT-2, Hosur.

2. Planning Officer,
   SIPCOT, Bangalore Road,
   Hosur.

3. Billappa
4. Nadupanna
5. Krishnappa
6. Sowdappa
7. Matha Reddy
8. Narayanappa ... Respondents

Prayer: First Appeal filed under Section 54 of Land Acquisition Act against the order dated 27.09.2013 made in LAOP.No.99 of 1997 on the file of Subordinate Court, Hosur.

For Appellants : Mr.N.C.Thirumalai Balaji
for Mr.P.Subba Reddy

For R1 : Mr.T.Chandrasekar
Special Government Pleader (AS)

For R2	: No appearance
R3 to R5	: Died (steps due)
For R6 to R8	: Mrs.V.Pavithra for Mrs.V.Srimathi

JUDGMENT

This appeal suit has been filed as against the order dated 27.09.2013 made in LAOP.No.99 of 1997 on the file of Subordinate Court, Hosur.

2. The appellants are the claimants. The respondents 1 and 2 are the acquisitioning body.

3. The land bearing S.No.158 to an extent of 0.73.0 hectares with 34 mango trees situated at Moranapalli Taraf, Hosur Taluk belong to the claimants. The said land was acquired by the respondents 1 and 2 for the purpose of SIPCOT 2nd stage, Hosur. The Land Acquisition Officer passed an Award and accordingly, the value of the land was fixed at Rs.2,48,630.20/- per hectare. On the basis of the Award, the compensation was calculated for the acquired land and trees. Without satisfying the same, the claimants made a reference under Section 18 of the Land Acquisition Act before the Trial Court. They filed a claim statement in L.A.No.99 of 1997.

4. The main contention raised by the claimants is that the land was acquired and thereafter, the Award was passed in Award No.3/97 dated 11.04.1997, for extension of SIPCOT, 2nd stage, Hosur. However, they were granted compensation at the rate of Rs.2,48,630.20/- per hectare and as such, sought for enhancement of compensation at Rs.15,00,000/- per acre for the land which was already acquired by them. In support of their claim, they marked Exs.1 to 3.

5. A perusal of documents revealed that the Trial Court passed an order, thereby enhanced the compensation for adjacent lands at Rs.4,77,600/-. Considering the Exs.1 to 3, the Trial Court enhanced the compensation from Rs.2,48,630/- per hectare to Rs.4,77,600/- per acre along with other benefits. Aggrieved by the same, this present appeal suit.

6. The learned counsel for the appellants would submit that the Court below failed to consider the market value of the land at the time of acquisition. The guideline value was more than Rs.4,77,000/- at the time of acquisition. He had also produced the guideline value of the land from the year 2017-2023. In the year 2017, the guideline value of the subject property was fixed at Rs.10 lakhs per acre.

7. In order to determine the compensation, he had also cited the Judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.1494 of 2011*** in the case of ***State of Punjab Vs Amarjit Singh and another*** and the Hon'ble Supreme Court of India held as per Section 23(1A) of the Land Acquisition Act, 1894. Accordingly, the compensation has to be calculated by considering the market value of the land, on the date of publication of the notification under Section 4(1) of the Land Acquisition Act.

8. The learned counsel for the respondent would submit that already the acquisition body preferred an appeal suit as against the award passed in similar land acquisition proceedings in A.S.No.429 of 2008 and batch and the same was dismissed by this Court. In fact, aggrieved by the same, the claimants preferred an appeal before the Hon'ble Supreme Court of India, insofar as the deduction of 40% of development charges and the same was also dismissed and confirmed the Award passed by the Trial Court.

9. It is relevant to extract the Judgment passed by this Court in a batch of appeal suits in ***A.S.Nos.429 of 2008 and batch*** dated ***05.08.2010*** as follows:-

"10. However, it must be noted that the Supreme Court vide its judgment in Chimanlal Hargovinddas v. Special Land Acquisition Officer, reported in (1988) 3 SCC 751, after laying out certain guidelines for fixing the market rate of compensation, in paragraphs 4 (1) and 4(3) had observed as follows:

4. The following factors must be etched on the mental screen:

> *(1) A reference under Section 18 of the Land Acquisition Act is not an appeal against the award and the court cannot take into account the material relied upon by the Land Acquisition Officer in his award unless the same material is produced and proved before the court.*
>
> *(3) The court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.*

11. The Supreme Court had also made clear that a reference is not an appeal. Equally the burden lies on the authorities to justify before the Reference Court the compensation awarded by them and convince the court by producing necessary data. Merely relying upon the statistical data cannot make the Reference Court to arrive at a just compensation by finding out the market rate. In the present case, the claimants have proved to the satisfaction of the Reference Court by producing necessary documents, which are relevant to the issue on hand and convinced the court about enhancing the compensation to which they are entitled to.

12. The learned Special Government Pleader also submitted that the court below was not justified in awarding 40% development charges and it ought to have provided 65%. In this context, it is necessary to refer to the judgment of the Supreme Court NELSEN FERNANDES & OTHERS VS. SPECIAL LAND ACQUISITION OFFICER, SOUTH GOA AND OTHERS reported in (2007) 9 SCC 447. In that case, the Supreme Court held that for the purpose of determining development charges, the purpose for which the lands acquired also will be a relevant factor and in some cases, there may not be any necessary to award deduction towards development charges.

13. The Supreme Court again in Kanta Devi and others vs. State of Haryana reported in (2008) 15 SCC 201 had also held that the normal rate of deduction can be 1/3. If there is any other requirement, that has to be proved to the satisfaction of the court. In the present case, the Reference Court considered the claims of both parties and fixed the deduction towards development charges at the rate of 40%. Though Mr. V.Ragavachari, learned counsel for the claimants contended that 40% is on a higher side, in the absence of appeals by the land owners, this Court is not inclined to go behind the percentage fixed by the Reference Court. It is suffice to state thuat 40% deduction is more than the requirement.

14. The next submissions made by the learned Special Government Pleader was that when the acquisition is for a common purpose, this Court cannot go on the basis of tharam or quality of soil. It was erroneous for it to determine the market rate Though there is no quarrel with the proposition advanced by the learned Special Government Pleader, in the present case the acquisition is undoubtedly for formation of SIPCOT (Phase II), since Phase I was already under operation and the entire lands were to be used only for industrial purpose. In the present case, the Court took note of the market rate, which is revealed by Ex.C.8 and adopted an uniform rate in respect of all the lands. It must be noted that the Supreme Court in the latest judgment in SPECIAL LAND ACQUISITION OFFICER VS. KARIGOWDA AND OTHERS reported in (2010) 5 SCC 708 had held the Reference Court is also empowered to take note the value of the lands in adjoining villages and cannot go intoa minute determination on such issues. The purpose of such acquisition and the unity of development can be a relevant factor. In this context, the following passages found in para 75 to 77 can be usefully reproduced:

> *75. It is a settled principle of law that lands of adjacent villages can be made the basis for determining the fair market value of the acquired land. This principle of law is qualified by clear dictum of this Court itself that whenever direct evidence i.e. Instance of the same villages are available, then it is most desirable that the court should consider that evidence. But where such evidence is not available court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and*

the potentiality and location of the land is somewhat similar. The evidence tendered in relation to the land of the adjacent villages would be a relevant piece of evidence for such determination. Once it is shown that situation and potential of the land in two different villages are the same then they could be awarded similar compensation or such other compensation as would be just and fair.

76. The cases of acquisition are not unknown to our legal system where lands of a number of villages are acquired for the same public purpose or different schemes but on the commonality of purpose and unitedevelopment. The parties are expected to place documentary evidence on record that price of the land of adjoining village has an increasing trend and the court may adopt such a price a the same is not impermissible. Where there is commonality of purpose and common development, compensation based on statistical data of adjacent villages was held to be proper. Usefully, reference can be made to the judgments of this Court in Kanwar Singh v. Union of India and Union of India v. Bal Ram.

77. In this regard we may also make a reference to the judgment of this Court in Kanwar Singh v. Union of India where sale instances of the adjacent villages were taken into consideration for the purpose of determining the fair market value of the land in question and their comparability, potential and acquisition for the same purpose was hardly in dispute. It was not only permissible but even more practical for the courts to take into consideration the sale statistics of the adjacent villages for determining the fair market value of the acquired land." (Emphasis added).”

10. Though the learned counsel for the appellants contended that the market value of the property was not considered at the time of passing the Award, the claimants did not even produce any iota of evidence to show that at

the time of acquisition of the subject land, what is the market value of the property. They simply cited the Award passed in the adjacent lands by the Trial Court. Therefore, the Trial Court considered the Judgment passed insofar as the adjacent lands and passed an Award, thereby enhanced the compensation at the rate of Rs.4,77,600/- per acre.

11. In view of the above, this Court finds no infirmity or illegality in the order dated 27.09.2013 made in LAOP.No.99 of 1997 on the file of Subordinate Court, Hosur and this appeal suit is liable to be dismissed.

12. Accordingly, this Appeal Suit is dismissed. No costs.

14.12.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

The Subordinate Court, Hosur.

G.K.ILANTHIRAIYAN. J,

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