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A.S.No.51 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.51 of 2023

and

C.M.P.No.2893 of 2023

The Special Tahsildar,
(Land Acquisition) Unit-V,
Outer Ring Road Project, CMDA, Koyambedu,
Chennai – 600 107.

... Appellant

Vs.

1.P.L.Vatchala

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai – 600 008.

... Respondents

Prayer: Appeal Suit is filed under Section 54 of the Land Acquisition Act, 1894 to set aside the decree and judgment passed in L.A.O.P.No.230 of 2008 dated 22.12.2020 on the file of the III Additional District and Sessions Judge, Tiruvallur @ Poonamallee.

For Appellant

: Mr.T.Chandrasekaran

For R1

: Mr.Adarsh Subramanian

For R2

: Mr.C.N.Vinobha,
Standing Counsel for CMDA



J U D G M E N T

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The Appeal Suit has been instituted against the Judgment and Decree dated 22.12.2020 passed in L.A.O.P.No.230 of 2008.

2. The claimant has filed L.A.O.P.No.230 of 2008 pursuant to the reference made under Section 18 of the Land Acquisitions Act, 1894. The Land Acquisition Claims Tribunal has adjudicated the issues and enhanced the compensation at Rs.16,500/- per cent and also a sum of Rs.15,00,000/- for the school building with 30% of solatium. The Land Acquisition Claims Tribunal further held that the claimant is entitled for the additional market value at 12% per annum from the date of notification till the date of possession or the date of passing the award, whichever is earlier. The claimant is entitled for the interest at the rate of 9% per annum for the period of one year from the date of possession and thereafter, entitled for interest at the rate of 15% per annum till the date of deposit.

3. The learned Special Government Pleader appearing on behalf of the appellant mainly contended that the valuation report submitted by the Executive Engineer with reference to the school building for which the



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compensation is awarded by the Tribunal is erroneous. The valuation report of the Executive Engineer with reference to the structural value of building was not taken into consideration and an exorbitant compensation of Rs.15,00,000/- was awarded for the building, which is improper and not in consonance with the actual valuation report submitted by the Executive Engineer, Public Works Department dated 23.08.2006. The structural value of the building existed in the acquired land has been valued at Rs.7,85,306/- . Thus, the award of compensation for the building to the tune of Rs.15,00,000/- is exorbitant and thus, the award of the Tribunal is liable to be set aside.

4. Regarding the award passed by the Tribunal in granting compensation of Rs.16,500/- per cent, the learned counsel for the appellant has brought to the notice of this Court that the said compensation awarded in respect of the same case was already upheld by the Hon'ble Division Bench of this Court, which was taken by way of an appeal to the Hon'ble Supreme Court and the Hon'ble Supreme Court has also confirmed the said order of the Division Bench passed in A.S.Nos.574 to 583 of 2011 dated 31.08.2015 in C.A.Nos.269 and 270 of 2023 dated 10.01.2023.



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5. The objection raised by the appellants are that the valuation report regarding the structural value of the building existed in the acquired land, as valued by the Executive Engineer has not been considered by the Tribunal. The Tribunal granted an enhanced compensation of Rs.15,00,000/- without any basis or document and thus, the award is liable to be set aside.

6. Regarding the enhanced compensation of Rs.16,500/- per cent, the appellant cannot have any dispute, since the said compensation has already been confirmed by the Hon'ble Division Bench of this Court, which was further confirmed by the Apex Court of India. Thus, the respondents / claimants herein are also entitled for the enhanced compensation at Rs.16,500/- per cent with 30% solatium. However, the compensation granted for the structural building is to be modified in view of the fact that the said compensation award is not in consonance with the valuation report submitted by the Executive Engineer, Public Works Department and further there is no basis for the Tribunal to grant a sum of Rs.15,00,000/- in the absence of any document. Thus, this Court is inclined to modify the compensation granted for the school building without solatium.



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7. Accordingly, the enhanced compensation at Rs. 16,500/- per cent stands confirmed along with 30% solatium. A Sum of Rs.15,00,000/- awarded for the school building has been modified as Rs.7,85,306/- for which the respondent / claimant is entitled. Regarding the interest, no interference is required.

8. Accordingly, the Judgment and Decree dated 22.12.2020 passed in L.A.O.P.No.230 of 2008 stands modified to the extent stated above and consequently, the Appeal Suit in A.S.No.51 of 2023 stands allowed in part. No costs. Consequently, the connected Miscellaneous Petition is closed.

9. The appellant is directed to settle the compensation to the claimant in terms of Section 34 of the Land Acquisitions Act within a period of three (3) months from the date of receipt of a copy of this Judgment.

28.02.2023

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Index : Yes

Speaking order

Neutral Citation : Yes



To

- 1.The III Additional District and Sessions Judge,
III Additional District and Sessions Court,
Tiruvallur @ Poonamallee.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
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S.M.SUBRAMANIAM, J.

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