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A.S.No.751 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

A.S.Nos.751, 752, 753, 754, 755, 756, 757, 758, 775, 762, 763, 764, 765,
766, 767, 768, 769, 770, 771, 772, 774, 776, 778, 779, 781, 782, 783, 784,
785, 786, 787, 788, 791, 792, 793, 794, 796, 801, 802, 803, 804, 805, 806,
810, 811, 812, 813, 814, 815, 816, 817, 818 and 819 of 2018

A.S.No.751 of 2018

The Special Tahsildar (LA),
Unit VI, Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Koyembedu, Chennai - 600 092.

...Appellant

Vs.

1.Gopalji Agarwal

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

...Respondents

Prayer: First Appeal filed under Section 54 of the Land Acquisition Act, against the judgment and decree of the Sub-Court, Ponneri in LAOP No.9 of 2015 dated 28.03.2018.



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769,
794,796,

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For Appellants : Mr.T.Chandrasekaran in all appeals
For Respondents : Mr.R.Krishnaswamy for R1 (Caveator) in
A.S.Nos.751, 752, 754 to 758, 763, 766,
to 772, 778, 779, 781 to 788, 791 to
801 of 2018

Mr.P.Kumaresan, Addl. Advocate General
assisted by Mr.P.Prasanna Kumar,
Panel Advocate for CMDA in all appeals

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Challenge in these appeals is to the awards of the Sub-Court, Ponneri made in several Land Acquisition Original Petitions relating to the acquisition of land for the purposes of laying Outer Ring road by the 2nd respondent namely, Chennai Metropolitan Development Authority.

2.In respect of the lands subject matter of these appeals, 4(1) notifications were made on 12.04.2012 and 30.07.2012. Award Nos.1 to 7 were passed on 31.10.2013, 12.12.2013, 27.12.2013 and 30.12.2013. The Land Acquisition Officer, relied upon the sale deed, which was produced as Ex.R1 and fixed the value per cent at Rs.65,378/-, Rs.65,708/-and at



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Rs.66,956/- for the lands that were under aquisition. The Land Acquisition officer also awarded statutory benefits that were available to the land owners under Act 1 of 1894. Aggrieved, the land owners sought for the reference under Section 18 of the Land Acquisition Act, 1894. The references were made to the Sub-Court, Ponneri.

3.Before the learned Sub-ordinate Judge, the land owners produced Ex.C1, sale deed under which, an extent of 1150 Sq.ft., of land was sold at Rs.5,39,000/- on 29.03.2012, which is prior to the 4(1) notification. The acquiring Authority, relied upon the Ex.R1, sale deed dated 25.08.2011 wherein, the extent of 1,175 Sq.ft., land was sold for Rs.1,80,114/-. While Ex.R1 related to Survey No.145, Ex.C1 related to Survey No.441 of the same village.

4.The learned Sub-ordinate Judge, relied upon the judgment of the Hon'ble Supreme Court in *Saush & Others Vs. State of U.P. & Others* reported in **2009 (9-10) SBR 307** wherein, it was held that when comparable exemplars are brought on record, one carrying highest market value amongst them should be taken into account by the Court to fix the



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compensation and concluded that Ex.C1, which reflects the highest value and which is more nearer to the date of the 4(1) notification should be accepted despite the fact that the lands covered by Ex.C1 were situate a little farther away. Taking the vaue reflected in Ex.C1 as the basis, the learned Sub-ordinate Judge deducted a sum of Rs.10,000/- and fixed the compensation payable at Rs.2,13,813/- per cent.

5.The learned Sub-ordinate Judge however, granted solatium at 100% and enhanced compensation as per the provisions of the Right to Fair Compensation Act, 2013 and thus, awarded nearly a sum of Rs.6,40,000/- per cent including solatium. Aggrieved, the Acquiring Authority namely, the Special Tahsildhar is on appeal.

6.We have heard Mr.T.Chandrasekaran, learned Special Government Pleader, appearing for the appellants and Mr.P.Kumaresan, learned Additional Advocate General appearing for the 2nd respondent and Mr.S.Krishnaswamy, learned counsel for the land owners.

7.Mr.T.Chandrasekaran, learned counsel for the appellants would



vehemently contend that since the awards were passed prior to 01.01.2014 namely, the date on which, the new Act came into force under Section 24 of the 2013 Act, the proceedings will have to be continued under the 1894 Act and there is no scope for the Court, awarding compensation as per the new Act. Drawing our attention to Section 24(1)A, the learned Special Government Pleader would submit that the Trial Court erred in granting double the market value with 100% solatium as per the provisions of the 2013 Act.

8.Mr.R.Krishnaswamy, learned counsel for the land owners is unable to support the reasoning of the Trial Court in granting solatium and other benefits under the 2013 Act.

9.Mr.P.Kumaresan, learned Additional Advocate General appearing for the CMDA would submit that the land covered by Ex.R1 situate within 1.6 Kilometres from the acquired land. A perusal of Ex.R2/ Map produced by CMDA before the Trial Court shows that a portion of Survey No.441 , covered by Ex.C1 also falls within the 1.6 kilometres radius. More over, the land acquisition being one for road, the exact location



from where 1.6 kilometres radius has to be measured itself is in doubt.

Therefore, we are unable to accept the technical objection made by the learned Additional Advocate General based on the map produced before the Trial Court.

10. We find that Survey No.441, in which, the land covered by Ex.C1 is within 1.6 kilometers from the Eastern most extremity of the proposed outer ring road. It may be little farther away, if the measurement is taken from the Western side of the outer ring road. Even the plan which has been produced by the CMDA shows that a portion of Survey No.441 falls within the 1.6 kilometers from the Western most extremity of the outer ring road. Therefore, we are unable to fault the Trial Court for accepting Ex.C1 based on the settled law that a land owner would be entitled to the highest value among the exemplars produced. This position of law has been reiterated by the Hon'ble Supreme Court in *Mehrawal Kheaji Trust Vs. State of Punjab reported in 2012(4)LW109* and a Division Bench of this Court in *The Special Thasildar, Land Acquisition Outer Ring Road Project -Vs- Palin Reshma Jacob & another made in A.S.Nos:574 to 583 of 2011 Batch dated 31-08-2015*.



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11.If we are to calculate the value per cent based on Ex.C1, it comes to Rs.2,23,813/-. The deduction made by the Sub-Court is not sustainable in as much as this Court in several cases relating to the very same outer ring proceedings particularly in *Palin Reshma Jacob referred to supra*, which dealt with the very same Outer ring Road project had held that no developmental charges could be deducted, since the acquisition is for the purposes of laying road. Hence, the deduction of Rs.10,000/- applied by the learned Sub-ordinate Judge will have to be set aside. Apart from deducting Rs.10,000/-, the learned Sub-ordinate Judge had applied the provisions of the 2013 Act and had doubled the compensation granted at Rs.2,13,000/- and added another 100% towards solatium taking the compensation awarded to Rs.6,39,000/- (Rs.4,26,000/- + Rs.2,13,000/-). Such calculation cannot be sustained. The learned Trial Judge was not justified in granting compensation as per the provisions of the 2013 Act, since the awards had not passed prior to 01.01.2014, the date on which, the 2013 Act came into force.

12.Hence, all these appeals are **allowed in part**, the compensation



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is fixed at Rs.2,23,813/- per cent. Needless to state that the land owners will be entitled to statutory benefits namely, 30% solatium, additional amount payable under Section 23(1-A) along with interest at 9% for the first one year from the date of taking possession and 15% thereafter till date of payment. The amounts remaining in the Court will be paid over to the land owners. No costs.

13.The learned Special Government Pleader as well as the Additional Advocate General will be entitled to separate fee in each of these appeals.

(R.S.M.,J.) (K.G.T.,J.)
11.10.2023

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Internet:Yes

Index:No

Speaking

Nuetral Citation : No



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K.GOVINDARAJAN THILAKAVADI, J.

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