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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.06.2023

PRONOUNCED ON : 12.09.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Appeal Suit Nos.741 and 913 of 2018
and
Civil Miscellaneous Petition No.20500 of 2018

A.S.No.741/2018:

The Special Tahsildar,
Land Acquisition
No.4, SIPCOT (Nagarjuna Oil Corporation Limited),
Cuddalore. ...Appellant / Referring Officer

vs.

1. Dr.P.Rajendran ...1st Respondent / Claimant

2. State Industries Promotion Corporation of
Tamil Nadu (SIPCOT) Limited,
Rep. by its Chairman and Managing Director
No.19-A, Rukmani, Lakdhmipsyhy Road,
Egmore, Chennai – 600 008. ...2nd respondent /Proposed Respondent

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A.S.No.913/2018:

The Special Tahsildar,
Land Acquisition
No.4, SIPCOT (Nagarjuna Oil Corporation Limited),
Cuddalore.

...Appellant / Referring Officer

vs.

1. Dr.R.Thenmozhi ... 1st Respondent / Claimant

2. State Industries Promotion Corporation of
   Tamil Nadu (SIPCOT) Limited,
   Rep. by its Chairman and Managing Director
   No.19-A, Rukmani, Lakdhmipsyhy Road,
   Egmore, Chennai – 600 008. ... 2nd respondent /Proposed Respondent

Common Prayer: Appeal Suits filed under Section 54 of the Land Acquisition Act, against the common Award dated 13.10.2015 in L.A.O.P.No.523 of 2013 and L.A.O.P.No.522 of 2013 respectively on the file of the Special Subordinate Court, Cuddalore.

For appellant in both cases	:	Mr. T. Chandrasekar Special Government Pleader
For R1 in both cases	:	Mr. S. R. Rajagopal, Senior Advocate For Ms.S.Varishini
For R2 in both cases	:	Mr. M. Naresh

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COMMON JUDGMENT

(The Judgment of the Court was made by K. RAJASEKAR, J.)

The Land Acquisition Officer/the Special Tahsildar has filed these appeals, challenging the enhancement of compensation awarded by the Land Acquisition Tribunal/Special Sub Court, Cuddalore in L.A.O.P.No.522 of 2016 and L.A.O.P.No.523 of 2016 respectively, as per the common order dated 13.10.2015.

2. These Land Acquisition Original Petitions were registered based on the reference made under section 18(1) of Land Acquisition Act, by the Land Acquisition Officer, on the basis of objections raised by the respective land owners, who have sought for enhancement of compensation.

3. For the purpose of setting up of Industrial Estate at Cuddalore Taluk, lands situated in Kayalpattu, Thiruchopuram, Kambalimedu Villages, to the extent of 648.37 hectares were acquired as per the Government Order No.749, Industries, dated 12.11.1998.

4. Based on the notification, the lands in Survey No.182/1, kayalpattu village, Cuddalore Taluk belongs to the Claimant in

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L.A.O.P.No.523 of 2013 viz., P.Rajendiran S/o Pavadai, to the extent of 2.70.0 hectares and the Claimant in L.A.O.P.No.522 of 2013 viz., R.Thenmozhi W/o Rajendiran, to the extent of 3.48 hectares was acquired and Award No.3 of 1999, dated 20.12.1999 was passed by the Special Tahsildar in Land Acquisition No.4, wherein the value of the acquired lands fixed at Rs.35,354/- per acre. Subsequently, reference was made for the lands belongs to the claimants for fixing the just compensation along with six other cases, belongs to different claimants.

5. The case of the claimants in both the petitions are as follows:

The compensation awarded by the Award Officer is very low, and the same is not representing the correct market value of the property on the relevant date. The land is situated very near to the Cuddalore – Parangipettai Road. The acquired land was used for raising various punja crops along with some cashew trees and fruit yielding trees. It has good water resources and the value of the land has been fixed as Rs.35,354/- per acre. The Award Officer has erred in fixing the market value based on the data land, which is situated far away from the acquired property. The Award Officer failed to consider the Sale deed No.1217/1998, dated 15.06.1998, wherein, the land in Survey No.190/2 has been valued as

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Rs.1 lakh per acre in the year 1998 and on the date of acquisition, the value of the above land is Rs.5 lakhs. The cashew trees in the property yields net income of Rs.10,000/- per acre/ per year.

6. The case of the respondent/Land Acquisition Officer is that based on the real market value, and by following the Provisions of the Land Acquisition Act, the value of the land acquired has been fixed. The Award passed by the Award Officer is very reasonable, based on the locality, potential value of the acquired property, the Award has been passed, and hence prays to confirm the same.

7. To prove their case before the Special Court, the claimants have examined P.W.1 to P.W.8 and Exs.P1 to P6 were marked. On the side of the respondent, R.W.1 to R.W.4 were examined and Exs.R1 to R8 were marked.

8. Based on the evidence placed on record, the Special Court has fixed the value of the land is Rs.5 lakhs per acre and Rs.3000/- per tree, and awarded compensation along with 30% solatium, 12% additional amount on the market value. For enhanced compensation, interest at the rate of 9% for the first one year and at the rate of 15% interest per annum for the

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subsequent years, till the entire amount is paid.

9. Based on the fixation, the learned Special Judge has directed the Land Acquisition Officer to pay a sum of Rs. 2,13,85,849/- along with subsequent interest at the rate of 15% per annum to the enhanced amount in L.A.O.P.No.523 of 2013 and Rs.2,67,97,171/- along with subsequent interest at the rate of 15% for the enhanced amount awarded in L.A.O.P.No.522 of 2013.

10. Aggrieved over the above award, these appeals have been filed by the respondents on the ground that quantum of compensation fixed under various heads is on the higher side, which has no basis for awarding the enhanced compensation.

11. Subject matters of the reference relates to the lands in Survey Nos.182/1 and 183/2 of Kayalpattu Village to the extent of 11.69 hectares of wet land. For the purpose of fixing the market value, the Acquiring Officer has considered 75 sale transactions taken place three years prior to 24.06.1999. After considering all the Sale deeds, the lands in Survey No.179 which was sold as per Sale deed No.294, dated 29.12.1997,

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on the file of Thirupapuliyur Registrar Office, was taken as a data land, which was sold for a sum of Rs.94,124/- per hectares. Accordingly, the compensation was fixed as Rs.94,124/- as a market value to the lands of claimants. The trees were separately valued solatium at the rate of 30% of the value fixed and 12% additional amount from the date of notification till the date of possession was also ordered. The compensation shall also carries 9% interest from the date of possession till the date of Award.

12. The selection of data land was not accepted by the learned Special Judge and he has selected land in Survey No.190 which was sold as per the Sale deed, dated 05.06.1998 which was registered some days earlier to the date of publication of the acquisition as proper data land.

13. This Court has heard the rival submissions made on both sides and also perused the materials available on record.

14. The Hon'ble Apex Court in ***Major General Kapil Mehra and Others vs. Union of India*** reported in ***2015 (2) SCC 262*** has reiterated various principles and factors to be considered by the Land Acquisition Officer as well as the Court, the relevant paragraph Nos.10 to 14 are

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incorporated hereunder, for fixing the market value and compensation.

> ***"10 . Market Value:*** *First question that emerges is what would be the reasonable market value which the acquired lands are capable of fetching. While fixing the market value of the acquired land, the Land Acquisition Officer is required to keep in mind the following factors: (i) existing geographical situation of the land; (ii) existing use of the land; (iii) already available advantages, like proximity to National or State Highway or road and/or developed area and (iv) market value of other land situated in the same locality/village/area or adjacent or very near to the acquired land.*
>
> ***11.*** *The standard method of determination of the market value of any acquired land is by the valuer evaluating the land on the date of valuation publication of notification Under Section 4(1) of the Act, acting as a hypothetical purchaser willing to purchase the land in open market at the prevailing price on that day, from a seller willing to sell such land at a reasonable price. Thus, the market value is determined with reference to the open market sale of comparable land in the neighbourhood, by a willing seller to a willing buyer, on or before the date of preliminary notification, as that would give a fair indication of the market value.*
>
> ***12.*** *In Viluben Jhalejar Contractor v. State of Gujarat MANU/SC/0286/2005 : (2005) 4 SCC 789, this Court laid down the following principles for determination of market value of the acquired land:(SCC pp. 796-97, paras 17-20)*
>
> ***17.*** *Section 23 of the Act specifies the matters required to be considered indetermining the compensation; the principal among which is the determination of the market value of the land on the date of the publication of the notification Under Sub-*

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section (1) of Section 4.

18. *One of the principles for determination of the amount of compensation for acquisition of land would be the willingness of an informed buyer to offer the price therefor. It is beyond any cavil that the price of the land which a willing and informed buyer would offer would be different in the cases where the owner is in possession and enjoyment of the property and in the cases where he is not.*

19 . *Market value is ordinarily the price the property may fetch in the open market if sold by a willing seller unaffected by the special needs of a particular purchase. Where definite material is not forthcoming either in the shape of sales of similar lands in the neighbourhood at or about the date of notification Under Section 4(1) or otherwise, other sale instances as well as other evidences have to be considered.*

20. *The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-a-vis the land under acquisition by placing the two in juxtaposition....*

13. *The Courts adopt comparable sales method for valuation of land while fixing the market value of acquired land. Comparable sales method of valuation is preferred rather than methods of valuation of land such as capitalization of net income method or rather than methods of valuation of land such as capitalization of net income method or expert opinion method, because it furnishes the evidence for*

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determination of the market value of the acquired land at which the willing purchaser would pay for the acquired land if it had been sold at which the willing purchaser would pay for the acquired land if it had been sold in the open market at the time of issuance of notification under Section 4 of the Act.

14. *While taking comparable sales mothod of valuation of land for fixing the market value of the acquired land, there are certain factors which are required to be satisfied and only on fulfillment of those factors, the compensation can be awarded according to the value of the land stated in the sale deeds. In Karnataka Urban Water Supply and Drainage Board and Ors. v. K.S.Gagadharappa and Anr. MANU/SC/0598/2009 : (2009) 11 SCC 164, factors which merit consideration as comparable sales are, inter alia, laid down as under:*

It can be broadly stated that the element of speculation is reduced to minimal if the underlying principles of fixation of market value with reference to comparable sales are made:

(i) When sale is within a reasonable time of the date of notification under Section 4(1);
(ii) It should be a bona fide transaction;
(iii) It should be of the land acquired or of the land adjacent to the land acquired;
(iv) It should possess similar advantages.

It is only when these factors are present, it can merit a consideration as a comparable case (See Special Land Acquisition Officer v. T. Adinarayan Setty)MANU/SC/0114/1958 : AIR 1959 SC 429) These aspects have been highlighted in Ravinder Narain v. Union of India MANU/SC/0169/2003 : (2003) 4 SCC 481.

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15. In the cases of enhancement for compensation, the Hon'ble Apex Court in several judgments reiterated that the burden of proof is always on the claimants to prove any, by adducing cogent and acceptable evidence that the lands are capable of fetching higher compensation than what is determination by the Land Acquiring Officer, which is only an offer. [Refer ***Periyar and Pareekanni Rubbers Limited vs. State of Kerala (AIR 1990 SC 2192)*** and ***the Special Deputy Collector and Others vs. Kurra Sambasiva Rao and Others (1997 6 SCC 41)***].

16. The Special Court has adopted comparable sales method to fix the market value for the lands of the claimants herein. The claimants have mainly relied on (1) Ex.P6-Sale deed, dated 15.06.1998 relates to the lands in Survey No.190 of Kayalpattu Village; (2) Ex.P7-Government Order in G.O.Ms.No.179, dated 30.06.1997; (3) Ex.P8-Letter given by the State Industries Promotion Corporation (SIPCOT), dated 23.07.2014 .

17. Ex.P6 is the Sale deed for the sale of lands in Survey No.190/2002, which was marked through P.W.3 [claimant in LAOP No.523/2013], wherein, 50 cents of lands have been sold for the value of Rs.50,000/-. This land is situated within the proximity radius fixed by the

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Land Acquisition Officer. In the cross examination of the Land Acquisition Officer, who was examined as R.W.3, he has admitted that the land described in Ex.P6-Sale deed, dated 15.06.1998, 50 cents of agricultural land was sold for a sum of Rs.50,000/-. Similarly, he has considered 75 sale transactions held between the period from 25.06.1996 to 24.06.1999, which is three years prior to the notification under Section 41(1) of the Land Acquisition Act. After considering the same, fixed the data land situated in R.S.No.179 to the extent of 4.14.5 hectares which was sold for a sum of Rs.94,124/- per hectare and based on the sale of data land, he has fixed the value of lands of the claimants herein. However, in the cross examination, he has admitted that the land in R.S.No.190/2 was sold for the value of Rs.1,00,000/- per acre as per Sale deed 15.06.1998, which was not taken into consideration and no explanation for the same was stated by the Acquiring Officer in the cross examination.

18. After holding that the Acquiring Officer has not properly fixed the Data land and the sale transactions-Ex.P6 has not been considered by the Acquiring Officer for the purpose of determining market value, the Tribunal rejected the market value fixed by the Acquiring Officer. The Tribunal further proceeded to consider Ex.P7, which is the Government

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Order in G.O.Ms.No.179, dated 30.06.1997 relating to proposal for acquisition of lands. In this Government Order, it is reported that the lands situated in the following Villages Andarmullipallam, Ayyampettai HO Kayalpattu, Periyapattu, Silambimangalam Villages to be acquired. The Managing Director, Tamil Nadu Corporation for Industrial and Infrastructure Development Limited, after conducting the local enquiry and fixed prevailing land value as Rs.2,000/- to Rs.3,000/- per cent. Based on the fixation of the above amount, the allotment of funds for the acquisition also made in the Government Order. This Government Order was marked on the side of the claimants and this valuation fixed by the Managing Director, Tamil Nadu Corporation for Industrial and Infrastructure Development have not been disputed by the Land Acquisition Officer by way of cross examination to the claimants.

19. Based on the above G.O., the Tribunal has held that the Land Acquiring Officer has not acted in fair manner and was not able to justify the fixation of land value and based on the above observation, the Tribunal has held that the value of the land fixed is very low, unjustifiable and unacceptable. Thereafter, the Tribunal has considered Ex.P8-Government Letter given by SIPCOT, dated 23.07.2014. In the letter, the

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Public Information Officer has given an information under Right to Information Act, to the question put to him, that the SIPCOT has handed over the land acquired by them to the extent of 581.38 acres to M/s.NOCL at the rate of 6.75 lakhs per acre on lease basis. The letter also says that the SIPCOT has not made any development work before handing over the land for lease.

20. Admittedly, the acquired lands are having better road connectivity to reach their respective lands, the lands are also situated very near to Parangipettai Town and near Cuddalore-Chidambaram National Highways. The lands are also having better irrigation facilities and having cashew trees which are the commercial agricultural crops. Taking note of the above facts, the Tribunal has fixed the value of land as Rs.5 lakhs per acre.

21. Before considering the legality of the order passed by the learned Special Judge, it is appropriate to refer relevant provisions of the Land Acquisition Act, 1894, for fixing compensation and to award interest. (Sections 23, 24, 28 & 34) are extracted hereunder:

"23. Matters to be considered in determining compensation:-

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(1) In determining the amount of compensation to be awarded for land acquired under this Act, the court shall take into consideration-

first, the market-value of the land at the date of the publication of the {Subs, by Act 38 of 1923, s.7, for "declaration relating thereto under s.6."} [notification under section 4, sub-section (1)];

secondly, the damage by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession taking possession of the land, by the reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if in the consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land as above provided the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

24. Matters to be neglected in determining compensation:-

But the Court shall not take into consideration---

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first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him, if caused by a private person, would not render such persons liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accure from the use to which the land acquires will be put; or

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the {Subs, by Act 38 of 1923, s.8, for "declaration under s.6."}[notification under section4, sub-section (1)].

eightly, any increase to the value of land on account of its being put to any use which is forbidden by law or opposed to public policy.

28. Collector may be directed to pay interest on excess compensation:-

If the sum, which the Collector did award as compensation, the award of the Court may direct that the collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into Court: [Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date

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of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.]

[28A. Re-determination of the amount of compensation on the basis of the award of the Court. - (1) where in an award under this part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court: Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded. (2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants. (3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, required that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.]

34. Payment of interest:-

When the amount of such compensation is not paid or deposited on or before taking possession of the

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land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.
[provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen percent per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry].”

22. The Hon'ble Apex Court in ***Tarlochan Singh and Ors v. State of Punjab and Ors [(1995) 2 SCC 424]*** has held that, “*Section 24 of the Land Acquisition Act, expressly prohibits and puts an embargo on the Court in taking the factors mentioned in Section 24 as relevant in determining the market value. Under these circumstances, the future development and potential prospective use of the acquisition etc., are not relevant circumstances. Even the purpose of acquisition also is not relevant”*.

23. In Ex.P8-Information given under Right to Information Act, states that the acquired lands have been leased out to NOCL and SIPCOT has not created any infrastructure facilities within the land allotted to NOCL. This letter was issued on 23.07.2014, and it is not clear when the

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land was leased out to NOCL. It is true that the SIPCOT has acquired those lands for the purpose of business activities. Based on the letter given on 23.07.2014, the deciding the value of the land which was acquired in the year 1999 is not proper and as held by the Hon'ble Apex Court in the ***Tarlochan Singh case,*** cited above, that the future development or increase in the value of the land acquired is prohibited from fixing the market value and the value of the lands shall be fixed only by way of comparable instances or any related documents which were came into existence before publication of notification under Section 4(1) of the Act, as stated in paragraph No.14 of the ***Kapil Mehra case,*** cited above. Hence reliance made on Ex.P8 is not proper and the same shall not be taken into account for considering the market value of the lands.

24. Ex.P7 is concerned, the Managing Director, TACID SIPCOT who had come forward to submit the proposal for acquiring lands for his institution i.e., SIPCOT has readily offered to pay a sum of Rs.2,000/- to Rs.3,000/- per cent. He has given specific opinion that they have conducted enquiry to ascertain the value of the lands accordingly, he has valued the total value of the entire acquisition proceedings as Rs.48 crores to Rs.72 crores. Based on the same, the Government has passed this

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G.O., accepting his suggestion by permitting the District Collectors to initiate the land acquisition process. This administrative sanction shows that the Government has expected the District Collectors to assess the value of the lands to be acquired and to pay the compensation. Accordingly, the allotment of administrative sanction for allotment of money has also been made on concurrence with the Revenue Department. This Ex.P7 is based on the opinion of the beneficiary i.e., the SIPCOT for whom the land acquisition proceedings were initiated. It is settled law that while fixing the value of the land, the Acquiring Officer, shall act as a hypothetical purchaser willing to purchase the land in open market at the prevailing price on that day, from the seller willing to sale such land at a reasonable price. Fixing the value of the land based on the opinion of the experts is also acceptable method in the absence of comparable sales method. However, in this case, the expert has given only outline that the acquired lands are having market value ranging from Rs.2,000/- to Rs.3,000/- per cent, which means, Rs.2 lakhs to Rs.3 lakhs per acre.

25. It is also elicited from the evidence of the Land Acquisition Officer that he has not considered the several sale transactions. It is specifically cross examined from R.W.3-Narayanan who has passed an

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award in Award No.2/1999, dated 30.12.1999. In his evidence, he has left several sale transactions and however, it has been proved by the claimants that the selection of Data land by the Acquiring Officer is not proper and he has rejected the Sale deed, dated 15.06.1998 relates to Survey No.190/2 of Kayalpattu Village and in the cross examination of R.W.3, which is also elicited some several sale transactions which were found in the statistics of sales prepared by him which were having more amount of sale value has been rejected by him without proper reasons. Under the said circumstances, this Court is of the view that fixing the data land by the Acquiring Officer is not proper and the Tribunal has rightly rejected the same. However, there is no proper exemplar to show that the lands acquired/lands of claimant was having a value of Rs.2,000/- to Rs.3,000/- per acre, except the opinion of the expert.

26. It is admitted case of the Acquiring Officer that the acquired lands were used for cultivating the cashew nuts. Based on the same, he has not awarded any additional amount of each cashew trees. He has stated that in Survey No.182/1, three years old cashew trees numbering 982 and one year old cashew trees numbering 96 were also there. But he has totally fixed the value of the trees only based on the wood value as Rs.5,821/-.

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27. In the evidence placed on record, the claimants elicited in the cross examination of the Acquiring Officer that the lands were situated half kilometre from the sea side and three kilometres near Parangipettai Town. He has also admitted that, he has also only valued Rs.5,825/- for the entire cashew trees numbering 982 + 96 trees. The fact that the lands are cultivating lands which carrying commercial crops has not been properly valued by the Acquiring Officer in his award. Ex.P6-Sale deed, dated 15.06.1998 states that the lands in Survey No.190/2 which is situated within the radius of 1.60 kms, which was taken by the Acquiring Officer to select the data land, has been sold for Rs.1 lakh per acre. The notification under Section 4(1) of the Act was issued on 24.06.1999, i.e., one year after the execution of Ex.P6. Considering the same, and also the fact that the lands are having commercial crops of cashew trees, palm trees and casurina trees. The acquired lands are having advantages like proximity to National Highways and it has also having road access and situated near Parangipettai which is between Cuddalore-Chidambaram. This geographical situation of the land also plays a vital role which is situated between the road and the sea which is small area between the National Highways on one side and Bay of Bengal on the other side. The acquired land has 1078 cashew trees, some palm trees and large number of casurina trees. Such a land would definitely

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would have the appreciative value and in this case, based on the expert opinion and also considering the various advantages, the Tribunal has rightly held that the value of the lands to be enhanced.

28. The other documentary evidence Exs.P9 to P12 relied on by the claimants is also not contemporary document which has came into existence from the year 2008 and upwards. Ex.P8 which relied on the claimants to show that the land to be valued for Rs.5 lakhs is not sustainable since Ex.P8 was only an information given under RTI Act, which gives the rate of lease given by the State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) to M/s.Nagarjuna Oil Corporation Limited (NOCL). In earlier paragraphs, this Court has rejected the reliance on Ex.P8. In the absence of Ex.P8, no other material placed on record to increase the value up to Rs.5 lakhs. Hence, fixing of value of the land as Rs.5 lakhs per acre, without any evidence or materials, the same is not sustainable and liable to be set aside.

29. The Tribunal in the award, recorded that, some of the land owners and the Acquiring Officer have arrived settlement to fix the compensation for Rs.3 lakhs per acre and this Court is of the view that even

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though the settlement arrived between the parties in the Lok Adalat is not binding any of the parties, it shows the willingness of both sides to fix the compensation to the extent of Rs.3 lakhs. In this case, the claimants have able to establish by way of Ex.P6-Sale deed that the data land selected by the Acquiring Officer is not proper and as on 15.06.1998, the nearby lands were sold for the value of Rs.1 lakh per acre and at the time of acquiring the land, the Managing Director of the SIPCOT has given a opinion that the lands to be acquired for the market value of around Rs.2,000/- to Rs.3,000/- per cent and the same has been accepted by the Government and administrative sanction and funds were allotted for acquiring lands and the acquisition proceedings were initiated on 02.06.1999 as per G.O. Ms.No.424, Industries, M-11, the lands which were sold in the year 1998 for Rs.1 lakh had an appreciation and as per the expert opinion of the Managing Director, the claimants proved their case that these lands value again to be increased to Rs.2 lakhs to Rs.3 lakhs. In this case, the claimants land was having more 1078 cashew nut trees in which 976 cashew nut trees, and considering various other advantages discussed earlier, the value of the land fixing to the extent of Rs.3 lakhs per acre would be appropriate.

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30. It is also settled law that the value of the trees have to be made separately for considering compensation under Section 23 of the Land Acquisition Act. The value of the trees have not been separately assessed by the Land Acquisition Officer herein, however, the Tribunal has separately considered the value of the trees. It has held that the Land Acquisition Officer has fixed Rs.5,821/- for cashew trees of the lands stands in the claimants land which comes around Rs.5.41/- per tree. Based on the books published by the Assistant Director of Horticulture, the Special Court has held that the hybrid cashew trees starts to yield from the second year onwards and it will continue giving benefit up to 25 years. He has also fixed Rs.3,000/- per tree, this Court find there is no infirmity in such finding since the trees are commercial crops with two yielding hybrid cashew has been fixed as Rs.3,000/-. The appellants have not been able to demonstrate or convince this Court how this finding is not acceptable or erroneous. The Special Court has given cogent reason for fixing this value and this Court confirms the same.

31. With regard to interest fixed by the Tribunal, this Court finds no infirmity in the above finding. The learned Special Government Pleader has also contended that the Special Court has failed to consider the

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development charges which has to be deducted from the compensation to be awarded.

32. In ***Subh Ram and Others vs. State of Haryana and Others*** reported in ***2010 (1) SCC 444***, the Hon'ble Apex Court has clarified, when is a development cut actually necessary and whether or not purpose of acquisition finds any relevant in imposing such cut. In paragraph 8 held as follows:

> *"when deduction is made from the value of a small residential plots towards the development cost, to arrive at the value of a large track of agricultural or undeveloped land with development potential, the deduction has nothing to do with the purpose for which, the land is acquired. The deduction is with reference to the price of the small residential plot, to work back the value of the large track of undeveloped land. On the other hand, where the value of acquired agricultural land is determined with reference to the sale price of a neighbouring agricultural land, no deduction need be made towards 'development cost'."*

33. In this case, the comparable sale lands are not developed lands and they are neighbouring agricultural land having same features of land which are acquired, hence contention of the appellant that, development charges shall be deducted is fully rejected. The claimants are entitled for the enhanced compensation of Rs.3 lakhs per acre along with 30% solatium of the enhanced compensation. They are also entitled for all

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eligible interest fixed as per Sections 23(1) A, 28 and 34 of the Land Acquisition Act, 1894.

34. In the result, the common Award passed in L.A.O.P.No.523 of 2013 and L.A.O.P.No.522 of 2013, dated 13.10.2015, passed by the learned Special Subordinate Judge, Cuddalore, is hereby modified, that the value of the acquired lands of the claimants is fixed as Rs.3 lakhs per acre. The value of the trees standing in the claimants land and solatium awarded for the enhanced compensation by the Special Court is hereby confirmed. They are also entitled for applicable interest as prescribed under Section 23 (1) (A), 28 and 34 of the Land Acquisition Act, 1894. No costs. Consequently, connected miscellaneous petition is closed.

(S.V.N., J.) (K.R.S., J.)
12.09.2023
(2/2)

ssi/stn
Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No

To
1. The Special Subordinate Judge,
Cuddalore.

2. The Public Prosecutor,
High Court, Madras.

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S. VAIDYANATHAN,J.,
and
K. RAJASEKAR,J.,

ssi

Pre-delivery Judgement made in
A.S. No.741 and 913 of 2018

12.09.2023
(2/2)

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