



WEB COPY



A.S.No.362 of 2019 and etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.Nos.362, 369, 370, 382, 390, 392, 412, 422 and 425 of 2019

A.S.No.362 of 2019

Thiru Balasubramani

... Appellant

Vs.

1.The Special Tahsildar,
Land Acquisition,
MRL Aromatic Project (NOW CPCL),
Saidapet, Chennai – 600 015.

2.The Member Secretary,
MRL (NOW CPCL),
No.552, Anna Salai,
Teynampet,
Chennai – 18.

3.The Project Officer,
AEROCHEM,
No.88, Anna Salai,
SPIC Centre, Guindy,
Chennai – 32.

... Respondents



A.S.No.362 of 2019 and etc., batch

Prayer:- Appeal Suit filed under Section 53 of the Land Acquisition Act, to set aside the Judgment and Decree passed by the Sub-Judge at Ponneri in L.A.O.P.No.1407 of 1998, dated 24.06.2013 and enhance the compensation amount fixing at Rs.6,540/- per cent besides other benefits provided under the L.A.Act-1894 in par with other claimants.

For Appellants : Mr.E.Karthik Raja
For Mrs.A.Jagadeeswari
(in all Appeal Suits)

For R1 : Mr.T.Chandra Sekaran,
Special Government Pleader (AS)

For R2 & R3 : No appearance

COMMON JUDGMENT

These Appeal Suits have been filed to set aside the Judgment and Decree dated 24.06.2013 passed by the Sub Judge, Ponneri in the following LAOPs:

<i>Sl.Nos.</i>	<i>Appeal Suits</i>	<i>L.A.O.P.Nos.</i>
1	A.S.No.362 of 2019	L.A.O.P.No.1407 of 1998
2	A.S.No.369 of 2019	L.A.O.P.No.550 of 1998
3	A.S.No.370 of 2019	L.A.O.P.No.544 of 1998
4	A.S.No.382 of 2019	L.A.O.P.No.509 of 1998
5	A.S.No.390 of 2019	L.A.O.P.No.1405 of 1998



A.S.No.362 of 2019 and etc., batch

<i>Sl.Nos.</i>	<i>Appeal Suits</i>	<i>L.A.O.P.Nos.</i>
6	A.S.No.392 of 2019	L.A.O.P.No.537 of 1998
7	A.S.No.412 of 2019	L.A.O.P.No.499 of 1998
8	A.S.No.422 of 2019	L.A.O.P.No.519 of 1998
9	A.S.No.425 of 2019	L.A.O.P.No.496 of 1999

2. The learned counsel appearing on behalf of the appellants mainly contended that on account of fixation of various amount of compensation in respect of the same acquisition proceedings, the land losers sustained monetary loss and an injustice is caused to the land losers, despite the fact that the acquisition was done in respect of the same area. The learned counsel for the appellant reiterated that on the same day, i.e.24.06.2013, two common Judgments were delivered by the L.A.O.P. Court and in the first Judgment in L.A.O.P.Nos.899 of 1998, etc., the amount of compensation was fixed as Rs.4,500/-. The Land Acquisition Officer fixed Rs.200/- per cent, which was enhanced by the Trial Court from Rs.200/- to Rs.4,500/-. On the very same day, another common Judgment in L.A.O.P.Nos.1037 of 1998, etc., dated 24.06.2013 was delivered by the very same Sub Court, Ponneri, wherein, the



A.S.No.362 of 2019 and etc., batch

compensation fixed by the Land Acquisition Officer as Rs.200/- is enhanced to Rs.4,750/-. When two common Judgments are delivered in respect of the same acquisition proceedings, two different compensation amount has been fixed. Thus, the fixation of compensation itself was improper. In a third set of acquisition proceedings, a common Judgment was passed by the Trial Court on 28.10.2014, wherein, the compensation amount was enhanced to Rs.6,540/-. Against the enhancement, the Special Tahsildhar, Land Acquisition filed Appeal Suit before this Court.

3.A batch of appeals were taken up for hearing and the Hon'ble Division Bench of this Court passed orders, dismissing the appeals filed by the Special Tahsildhar and accordingly, the enhanced compensation fixed by the L.A.O.P. Court was confirmed. A review application was filed by the land losers, which was also dismissed by the Hon'ble Division Bench and the learned counsel for the appellants made a submission that all those appeals were filed by the Special Tahsildhar, Land Acquisition and the land losers have not filed any appeal during the relevant point of time. Thus, they have preferred the present Appeal Suits seeking enhancement of compensation.



A.S.No.362 of 2019 and etc., batch

WEB COPY

4. The learned counsel for the appellant solicited the attention of this Court that the acquired land was in between Rs.4,500/- to Rs.8,720/- and the bottom value was taken into consideration for the purpose of fixing just compensation by the Trial Court. When the Trial Court arrived a conclusion that the just compensation would be Rs.4,750/- in a batch of cases and subsequently, Rs.6,540/- in other set of cases, then the compensation must be awarded uniformly to all the land losers and in the present case, three set of Judgments were delivered fixing three different rates, which caused hot burning issue amongst the land losers as the acquisition was done in respect of the same locality.

5. The learned counsel for the appellants urged this Court that the Hon'ble Division Bench dismissed the appeal filed by the Land Acquisition Officer and during the relevant point of time, they also participated in the adjudication process before the Hon'ble Division Bench and the Hon'ble Division Bench also made an observation that it is not even a case of suo motu enhancement and accordingly, confirmed the Judgment and Decree passed by the L.A.O.P. Court and dismissed the Appeal Suits filed by the Special Tahsildhar, Land Acquisition.



A.S.No.362 of 2019 and etc., batch

WEB COPY

6. Against the Judgment of the Division Bench, one land loser filed a review application and the Division Bench again considered the findings in this regard and made an observation that "the Division Bench declined to grant the relief to the petitioner and other land owners on the ground that there was no cross appeal. However, the Division Bench indicated the legal position that even in the absence of an appeal, it is within the powers of the Appellate Court to enhance the compensation under Order 41 Rule 33 of CPC. Since there is a likelihood of opening a Pandora's box in respect of other cases, the Division Bench declined to grant the relief to the petitioner." Therefore, undoubtedly, the Division Bench had considered these aspects for suo motu enhancement also.

7. Admittedly, the appellant in the present appeal suit had not filed any cross appeal or an appeal suit. The appeal suits filed by the Special Tahsildhar, Land Acquisition were alone heard by the Hon'ble Division Bench. The Hon'ble Division Bench made an observation that there is a likelihood of opening a Pandora's box in respect of other cases in the event of enhancing compensation suo motu under Order 41 Rule 33 of



A.S.No.362 of 2019 and etc., batch

WEB COPY

CPC. Therefore, it is not as if the point regarding the enhancement was not considered by the Division Bench. In fact, the element of suo motu was considered by the Division Bench and an observation was made by the Division Bench and consequently, the appeals filed by the Special Tahsildhar, Land Acquisition, are dismissed and even in the review order, the Division Bench reiterated the same. A Special Leave Petition was filed in S.L.P.(Civil) Diary No.21943 of 2018 and the Hon'ble Supreme Court had dismissed the Special Leave Petitions.

8. The learned Special Government Pleader (AS) appearing on behalf of the first respondent disputed the contentions, by stating that the issues are already settled. The Land Acquisition Officer fixed the compensation as Rs.200/- per cent. Thereafter, the land losers approached the L.A.O.P. Court and the compensation was enhanced from Rs.200/- to Rs.4,500/-, Rs.4,750/- and Rs.6,540/- respectively in respect of three batch of acquisition proceedings. All these Judgments became final, as the appeals preferred by the Special Tahsildhar, Land Acquisition were dismissed by the Hon'ble Division Bench and the Division Bench also considered the suo motu enhancement and not granted such enhancement



A.S.No.362 of 2019 and etc., batch

of compensation to the land losers. The review application filed by the land losers was also rejected and the special leave petition filed against that order is also dismissed. This being the factum, the present appeals cannot be entertained at all.

9. The learned counsel for the appellants reiterated that the right of appeal is vested under the statute and therefore, the claim of the appellants for enhancement of compensation is put on merits.

10. This Court is of the considered opinion that when the Hon'ble Division Bench considered suo motu enhancement of compensation, with reference to Order 41 Rule 33 of CPC and declined to grant any such enhancement of compensation, thereafter, this Court cannot consider the very same ground, as the said order was confirmed in a review order and subsequently by the Hon'ble Supreme Court of India. That apart, the factual inference to be drawn by this Court is during the relevant point of time, when the matter was adjudicated before this Court, none of the land losers preferred any cross appeal or an appeal suit challenging the award of compensation by the L.A.O.P. Court. Apparently, they have contended



A.S.No.362 of 2019 and etc., batch

that they are entitled for enhancement even in such circumstances, the Hon'ble Division Bench considered the case of the land losers for grant of suo motu enhancement and the said ground was also rejected. This being the factum, this Court is of the opinion that this Court cannot take a recourse in respect of the adjudication done by the Hon'ble Division Bench of this Court and the said order is confirmed by the Hon'ble Supreme Court of India. As observed by the Division Bench of this Court, at this length of time, if these appeal suits are considered for enhancement of compensation, then it will open an Pandora's box and therefore, this Court is not inclined to grant the relief as such sought for.

11. The acquisition proceedings were initiated in the year 1991 and the L.A.O.P. Court passed an order in the year 2013, the Division Bench of this Court also passed an order in the year 2015 and the Hon'ble Supreme Court dismissed the SLP in 2018. The issues regarding the fixation of just and fair compensation, as well as enhancement of compensation to the land losers were considered both by the Hon'ble Division Bench as well as the L.A.O.P. Court. Under these circumstances, the very same ground held by the Division Bench cannot be adjudicated



A.S.No.362 of 2019 and etc., batch

by this Court in an appeal filed by the land losers and they have exhausted their right by participating in the adjudication process before the Division Bench of this Court and their contention for enhancement for compensation was not considered and even the suo motu enhancement was not considered.

12. Under these circumstances, these appeal suits are devoid of merits. Accordingly, the Judgment and Decree passed in L.A.O.P.Nos.497, 499, 509, 519, 537, 544, 550, 1405 and 1407 of 1998 dated 24.06.2013 are confirmed. Consequently, the Appeal Suits in A.S.Nos.362, 369, 370, 382, 390, 392, 412, 422 and 425 of 2019 stand dismissed. No costs.

23.02.2023

skr

Index:Yes

Speaking order: Yes

Neutral Citation : Yes



A.S.No.362 of 2019 and etc., batch

WEB COPY To

- 1.The Sub-Judge,
Ponneri.
- 2.The Special Tahsildar,
Land Acquisition,
MRL Aromatic Project (NOW CPCL),
Saidapet, Chennai – 600 015.



WEB COPY



A.S.No.362 of 2019 and etc., batch

S.M.SUBRAMANIAM, J.

skr

A.S.No.362 of 2019 and etc., batch

23.02.2023