



A.S.(MD).No.72 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD).No.72 of 2023

and

C.M.P.(MD).No.4209 of 2023

The Revenue Divisional Officer,
Aruppukottai (Land Acquisition)
Virudhunagar.

... Appellant

Vs.

1.Nammalwar

2.Veerasingam

... Respondents

PRAYER: The Appeal Suit is filed under Section 54 of the Land Acquisition Act, challenging the judgments and decree dated 20.10.2016 made in L.A.O.P.No.35 of 2011, on the file of the Subordinate Court, Arupukottai (Land Acquisition Tribunal).

For Appellant : Mr.D.Sasi Kumar
Additional Government Pleader

For Respondents : Mr.S.Venkatesh



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Challenging the award passed by the Land Acquisition Tribunal, Subordinate Court, Aruppukottai in L.A.O.P.No.35 of 2011, dated 20.10.2016, this appeal has been filed.

2. An extent of 0.32.0 and 0.83.0 hectares of lands were acquired for the purpose of formation of an irrigation tank in Survey Numbers viz., S.Nos. 120/4B and 123/3A situated at Arupukottai Taluk, Periyampuliyampatti Village.

3. The Notification under Section 4(1) of the Land Acquisition Act, 1894 was issued on 14.10.2004. The Land Acquisition Officer has passed an award on 08.10.2007, fixing the value at the rate of Rs.209/- per cent and Rs.51,690/- per hectare. Not satisfied with the award amount determined by the Land Acquisition Officer, a reference was made to the Land Acquisition Tribunal. The claimants claimed enhanced compensation mainly on the ground that the acquired lands are situated near Arupukotti – Virudhunagar State Highways. Besides that, the area is already included within the Municipal limit 30 years back and there are several developments took place including factories, house sites, bus stand, schools, Hospitals etc. Hence, they claimed enhanced compensation.



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4. Before the Land Acquisition Tribunal, on the side of the claimants, P.Ws.1 and 2 were examined and Exs.P1 to P5 were marked and on the side of the respondent, R.W.1 was examined and Exs.R1 to R4 were marked.

5. The Land Acquisition Tribunal (Subordinate Court), Aruppukottai, after considering the documentary evidence adduced on the side of the claimants, enhanced the compensation from Rs.209/- to Rs.5,000/- per cent and deducted 30% for developmental charges and ultimately fixed the compensation at the rate of Rs.3,500/- per cent. Challenging the same, the present appeals have been filed by the appellant.

6. The learned counsel appearing for the appellant would submit that the acquired land is situated within the vicinity of the area, which has already been acquired in the year 2004, for the purpose of construction of fertiliser godown and model land value has been taken by the Land Acquisition Officer to fix the value. However, the Tribunal has given undue importance to the sale deeds and fixed the compensation in excess. Hence, he prayed for allowing of these appeals.



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7. The learned counsel appearing for the respondents would submit that the Land Acquisition Tribunal not only taken note of the admitted facts, but also taken note of the developments made nearby places and in fact, R.W.1 in his evidence also admitted that various developments took place in the acquired land. Hence, the judgment of the Land Acquisition Tribunal does not require any interference.

8. Heard the learned Additional Government Pleader appearing for the petitioner and the learned counsel appearing for the respondents.

9. In the light of the submissions made on either side, now the points for consideration in these appeals are (i) whether the Tribunal has exceeded its jurisdiction in fixing the enhanced compensation? and (ii) whether the Tribunal has fixed the enhanced compensation without any evidence on record?

10. It is not in dispute that various extent of the respondents lands were acquired for the purpose of construction of an irrigation tank. The evidence adduced before the reference Court clearly established that the acquired land is situated very near to Virudhunagar - Arupukottai State Highways. Further, the evidence adduced on the side of the claimants, which was admitted by R.W.1,



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clearly indicates that there are several development taken place in the nearby places, including factories and other commercial entities also come up. It is also established before the Tribunal that the acquired land included within the jurisdiction of the Municipality 30 years back. That apart, the Tribunal took note of Exs.P1 to P5/sale deeds. On a perusal of the sale deeds, the Tribunal found that even several transactions took place right from 2003 and 2004, prior to 4(1) Notification. The evidence of P.W.2/Document Writer, who prepared the documents has also spoken about the value of the property. According to him, the documents have been registered on the guideline value fixed by the Government. Therefore, the documents registered earlier even prior to the acquisition show that the guideline value of the property is much more. The Land Acquisition Tribunal considering the above documents, enhanced the compensation at the rate of Rs.5,000/- per cent and deducted 30% for developmental charges and ultimately fixed the compensation at the rate of Rs.3,500/-.

11. A perusal of the entire evidence particularly the admission made by R.W.1 reveals that there are various developmental activities took place nearby places. The Land Acquisition Officer has fixed the compensation without even collecting any documents for three years which is not in accordance with law.



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Further, the model land which relied upon by the Acquisition Officer is also situate at a distance of 4 k.ms. from the acquired land, which is also established on record.

12. In such a view of the mater, the Tribunal fixing the compensation based on the documentary evidence and also developments took place even prior to Section 4(1) Notification which cannot be said to be abnormal and excessive. Hence, this Court does not find any merit in these appeals.

13. In the result, these Appeal Suits are dismissed and the award passed by the Land Acquisition Tribunal (Subordinate Court), Aruppukottai in L.A.O.P.No.35/2011, dated 20.10.2016 is confirmed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

30.03.2023

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To

The Land Acquisition Tribunal
(Subordinate Court),
Aruppukottai.



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N.SATHISH KUMAR,J.

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