IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

A.S Nos.916, 938, 930, 926, 934, 927, 921, 920, 909, 924 of 2019 &
A.S Nos. 264, 262, 266, 248, 263 and 245 of 2020 &
Cross Obj. Nos. 96,92,97,93,94,95 of 2021

AS. No. 916 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Natesan (Died)
1.Saroja
2.Muthamilselvan
3.Annathurai
4.Porselvi
5.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
6.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 491 of 2002 dated 26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran.

Special Government Pleader

For Respondents : Mr.A.Sivaji

AS. No. 926 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Periyasamy (Died)
1.Gunasekaran
2.Arivalagan
3.Santhi
4.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
5.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 88 of 2003 dated 26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran.

Special Government Pleader

For Respondents : Mr.A.Sivaji

Cross Objection No.97 of 2021 in A.S.No.926 of 2019

Periyasamy (Died)

1.Arivalagan
2.Santhi ....Cross Objector

Vs.

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.
2.The Managing Director,
Arasu Cements Corporation,
No.735, 2nd Floor, LLA Building,
Annasalai, Chennai.

3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur. ...Respondents

Cross Objection is filed under Order XLI Rule 22 of CPC, prayed to enhance the compensation fixed by the Reference Court in LAOP.No.88 of 2003, dated 26.04.2017 from Rs.1,20,000/- per acre and fix the compensation to the rate of Rs.1,50,000/- per acre as claimed in the reference along with proportionate accrued interest and other benefits as enumerated in the land Acquisition Act.

For Cross Objector : Mr.V.Raghavachari, Senior Counsel
for R.Govulakrishnan

AS. No. 938 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

1.Aruvampal
2.Palanivel
3.Sathappillai
4.Sellam
5.Sudha
6.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
7.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 497 of 2002 dated 26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 934 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Periyasamy (Died)
1.Gunasekaran
2.Arivalagan
3.Santhi

4.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
5.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 89 of 2003 dated 26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

For Respondent : Mr.A.Sivaji

Cross Objection No.97 of 2021 in A.S.No.926 of 2019

Periyasamy (Died)
1.Gunasekaran
2.Arivalagan
3.Santhi ....Cross Objector

Vs.

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.
2.The Managing Director,
Arasu Cements Corporation,
No.735, 2nd Floor, LLA Building,
Annasalai, Chennai.

3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur. ...Respondents

Cross Objection is filed under Order XLI Rule 22 of CPC, prayed to enhance the compensation fixed by the Reference Court in LAOP.No.89 of 2003, dated 26.04.2017 from Rs.1,20,000/- per acre and fix the compensation to the rate of Rs.1,50,000/- per acre as claimed in the reference along with proportionate accrued interest and other benefits as enumerated in the land Acquisition Act.

For Cross Objector : Mr.V.Raghavachari, Senior Counsel
for R.Govulakrishnan

AS. No. 927 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Sivamalai (Died)
1.Tamilselvi
2.Manivel
3.Vembu
4.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
5.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 97 of 2003 dated 26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

For Respondent : Mr.A.Sivaji

Cross Objection No.97 of 2021 in A.S.No.926 of 2019

Sivamalai (Died)
1.Tamilselvi
2.Manivel
3.Vembu ....Cross Objector

Vs.

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.
2.The Managing Director,
Arasu Cements Corporation,
No.735, 2nd Floor, LLA Building,
Annasalai, Chennai.

3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur. ...Respondents

Cross Objection is filed under Order XLI Rule 22 of CPC, prayed to enhance the compensation fixed by the Reference Court in LAOP.No.97 of 2003, dated 26.04.2017 from Rs.1,20,000/- per acre and fix the compensation to the rate of Rs.1,50,000/- per acre as claimed in the reference along with proportionate accrued interest and other benefits as enumerated in the land Acquisition Act.

For Cross Objector : Mr.V.Raghavachari, Senior Counsel
for R.Govulakrishnan

A.S.No.921 of 2019 and Cross Objection.No.92 of 2021

The Special Tahsildar, (L.A.)
Unit II Arasu Cements Factory,
Ariyalur ... Appellant

Vs.

Kulandhaivel Udaiyar (Died)
S/o.Arumuga Udaiyar

1.The Special Tahsildar, (L.A.)
Unit II Arasu Cements Factory,
Ariyalur

2.The Managing Director,
Arasu Cements Corporation,
No.735, 2nd Floor, LLA Building,
Annasalai, Chennai.

3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur. ...Respondents

Appeal suit is filed under Section 54 of the Land Acquisition Act, prayed to set aside the decree passed in LAOP.No.488 of 2002 dated 26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran
Special Government Pleader.
For Respondents : Mr. A. Sivaji

<u>Cross Objection No.92 of 2021 in A.S.No.921 of 2019</u>

Kulandhaivel Udaiyar (Died)

S/o.Arumuga Udaiyar ....Cross Objector

Vs.

1.Murugesan
2.Vijayakumari
3.Rajangam
4.The Managing Director,
Arasu Cements Corporation,
No.735, 2nd Floor, LLA Building,
Annasalai, Chennai.

5.Deputy General Manager,
Arasu Cements Factory,
Ariyalur. ...Respondents

Cross Objection is filed under Order XLI Rule 22 of CPC, prayed to enhance the compensation fixed by the Reference Court in LAOP.No.488 of 2002, dated 26.04.2017 from Rs.1,20,000/- per acre and fix the compensation to the rate of Rs.1,50,000/- per acre as claimed in the reference along with proportionate accrued interest and other benefits as enumerated in the land Acquisition Act.

For Cross Objector : Mr.V.Raghavachari, Senior Counsel
for R.Govulakrishnan

<u>AS. No. 264 of 2020</u>

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

1.Pakrisamy

2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 55 of 2003 dated 03.02.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 262 of 2020

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Chandrasekaran

2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 79 of 2000 dated 16.02.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 266 of 2020

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Sepperumal

2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,

Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 76 of 2001 dated 31.01.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 248 of 2020

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

1.Natchathiram

2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition

Act, to set aside the the decree passed in LAOP No. 10 of 2001 dated 16.02.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 263 of 2020

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

1.Palanisamy
2.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 24 of 2001 dated 16.02.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 264 of 2020

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Kulandhaivle Udaiyar (Died)
1.Pakrisamy

2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 55 of 2003 dated 03.02.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 920 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

1.Jagathambal
2.Vembu

3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 36 of 2001 dated 16.02.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

For Respondent: Mr.A.Sivaji

Cross Objection No.96 of 2021 in A.S.No.920 of 2019

1.Jagathambal
2.Vembu ....Cross Objector

Vs.

1.The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

2.Deputy General Manager,
Arasu Cements Factory,
Ariyalur. ...Respondents

Cross Objection is filed under Order XLI Rule 22 of CPC, prayed to enhance the compensation fixed by the Reference Court in LAOP.No.36 of

2001, dated 26.04.2017 from Rs.1,20,000/- per acre and fix the compensation to the rate of Rs.1,50,000/- per acre as claimed in the reference along with proportionate accrued interest and other benefits as enumerated in the land Acquisition Act.

For Cross Objector : Mr.V.Raghavachari, Senior Counsel
for R.Govulakrishnan

AS. No. 930 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Periyasamy (Died)
1. Pandiyan
2.Valarmathi
3.Indiragandthi
4.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
5.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 99 of 2003 dated

26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

Cross Objection No.94 of 2021 in A.S.No.930 of 2019

Periyasamy (Died)
1. Pandiyan
2.Valarmathi
3.Indiragandthi ....Cross Objector

Vs.

1.The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.
2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur. ...Respondents

Cross Objection is filed under Order XLI Rule 22 of CPC, prayed to enhance the compensation fixed by the Reference Court in LAOP.No.99 of 2001, dated 26.04.2017 from Rs.1,20,000/- per acre and fix the compensation to the rate of Rs.1,50,000/- per acre as claimed in the reference along with proportionate accrued interest and other benefits as enumerated in the land Acquisition Act.

For Cross Objector : Mr.V.Raghavachari, Senior Counsel for R.Govulakrishnan

AS. No. 924 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

1.Nagarasu
2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 528 of 2002 dated 03.02.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 245 of 2020

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

1.Venkatachalam

2.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
3.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 77 of 2001 dated 31.01.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

AS. No. 909 of 2019

The Special Tahsildar(L.A)
Unit II Arasu Cements Factory,
Ariyalur.

...Appellant

Vs.

Vellamuthu(Died)
1.Patchaiammal
2.Karuppaiyan
3.Selvaraj
4.Managing Director,
Arasu Cements Corporation,
NO. 735, II nd Floor, LLA Building,
Annasalai, Chennai.
5.Deputy General Manager,
Arasu Cements Factory,
Ariyalur.

...Respondents

PRAYER : This first appeal is filed under Section 54 of the land Acquisition Act, to set aside the the decree passed in LAOP No. 503 of 2002 dated 26.04.2017 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.T.Chandrasekaran,
Special Government Pleader

COMMON JUDGMENT

These appeals are filed by the Special Tahsildar, Unit II Arasu Cement Factory, Ariyalur, against the award passed by the referrence Court fixing enhanced compensation of Rs.1200 from Rs.250/- fixed by the Acquisition Authority. On the other side, claimants filed Cross objections to enhance the compensation fixed by the Reference Court from Rs.1200/- to Rs.1,500/-.

2. The issues involved in the first appeals and Cross Objections are one and the same and hence, they are disposed of by this common Judgment. The appeal suits are filed, challenging the judgment and decree passed by the Sub-Court, Ariyalur.

L.A.O.P. Nos.	***Dated***	***A.S.Nos.***
LAOP No. 491 of 2002	26.04.2017	A.S No. 916 of 2019

L.A.O.P. Nos.	***Dated***	***A.S.Nos.***
LAOP No. 497 of 2002	26.04.2017	A.S No. 938 of 2019
LAOP No. 88 of 2003	26.04.2017	A.S No. 926 of 2019
LAOP No. 99 of 2003	26.04.2017	A.S No. 930 of 2019
LAOP No. 89 of 2003	26.04.2017	A.S No. 934 of 2019
LAOP No. 97 of 2003	26.04.2017	A.S No. 927 of 2019
LAOP No. 488 of 2002	26.04.2017	A.S No. 921 of 2019
LAOP No.55 of 2003	03.02.2017	A.S No. 264 of 2020
LAOP No. 79 of 2000	16.02.2017	A.S No. 262 of 2020
LAOP No. 76 of 2001	31.01.2017	A.S No. 266 of 2020
LAOP NO. 36 of 2001	26.04.2017	CROS.OBJ.96 of 2021
LAOP No. 88 of 2003	26.04.2017	CROS.OBJ.92 of 2021
LAOP No. 97 of 2003	26.04.2017	CROS.OBJ.97 of 2021
LAOP No. 97 of 2003	26.04.2017	CROS.OBJ.93 of 2021
LAOP No. 99 of 2003	26.04.2017	CROS.OBJ.94 of 2021
LAOP No. 89 of 2003	26.04.2017	CROS.OBJ.95 of 2021
LAOP No. 10 of 2001	16.02.2017	A.S No. 248 of 2020
LAOP No. 24 of 2001	16.02.2017	A.S No. 263 of 2020
LAOP No. 36 of 2001	16.02.2017	A.S No. 920 of 2019
LAOP No. 77 of 2001	31.01.2017	A.S No. 245 of 2020
LAOP No. 528 of 2002	03.02.2017	A.S No. 924 of 2019
LAOP No. 503 of 2002	26.04.2017	A.S No. 909 of 2019

3. Both appeals and Cross-objection are tried here jointly. According to the Cross-objector, the Award passed by the Referrence Court is contrary to law and evidence. So far as, fixation of lower quantum of compensation, cross appeals are filed seeking for enhancement of compensation, as the amount of

compensation award is meagre and paltry.

4. Points to be considered in these First Appeals and Cross Objection are as follows:

i) The Reference Court has failed to apply the comparison method of comparing the sale deeds executed prior to the notification as envisaged by the Hon'ble Supreme Court in number of cases.

ii) The Reference Court ought to have fixed the market value of the mineral

iii) The Reference Court ought to have seen that the value of the mineral and potential of the mineral ore and land and fix appropriate compensation.

5. The learned counsel for the Cross-Objector submitted that even during enquiry, the market value was requested to be fixed at the rate of Rs.2 lakhs by referring to the sale deed executed by one of the adjacent land owner with a private entrepreneur, but the same was not considered. Furthermore, the potential of the land has drastically increased after discovery of the ore mineral, namely limestone. Without reference to the potentiality of the land in

the growing market, lesser value for the land was fixed by the Court below and as such, it is erroneous one and liable to be set aside. Furthermore, the learned counsel submitted that the market value of the land ought to be fixed based on the sale consideration in the relative adjacent land, but pragmatic approach of assessing and weighing the evidence was not adopted by the Reference Court. Therefore, the Award passed by the Reference Court is liable to be set aside. Furthermore, without taking note of prevailing and surrounding circumstances, the Land Acquisition Officer / Tahsildar fixed only Rs.25,000/- per acre, which is proper one, but the learned trial Judge failed to consider properly the two sale deeds namely Exhibits C1 and C2 of the year 1995 as individuals executed in favour of Ram-Co Cement factory for larger extent and those sale deeds were executed prior to the investigation by the respondents under Section 4(1) of the Land Acquisition Act, 1894. So, those two documents are material evidence to assess the value of the land, but the same was not been considered and appreciated. Further, the trial Court failed to appreciate Ex.P3 relied to show the evidence of Geologist, who categorically stated about the quality and quantity of the limestone in the acquisition land, but without appreciating all the evidence on record, the trial Court fixed the market value of land. So the trial Court ought to have fixed

Rs.1,50,000/- per acre as market value of the land but the trial Court fixed Rs.1,20,000/- per acre without assigning any reason as such is against the settled principals of law, laid down by the Apex Court in 2012 (5) SCC 432 and 2010 (3) SCC 661.

6. The reference Court appreciated Exs.C1 and C2 - Sale deeds, but instead of fixing Rs.1,500/- per sq.ft. and fixed lesser value of Rs.1,200/- per cent which is also erroneous as it amount to reduction of 25% of the value of the land for payment of compensation without any valid reason is also liable to be set aside. Furthermore, he submitted that with regard to fixation of the amount for development charges is concerned, the 1st respondent urged the Cement Factory not to adduce any evidence for development charges. Before the trial Court, it was stated that already Cement factory was run being from the year 1976 onwards, but the land was acquired only for the purpose of mines, which is the main raw material for production of cement and as such, there is no necessity for development charges. Accordingly, he prayed to submit his objections and also prayed to enhance the sum of Rs.1,20,000/- to Rs.1,50,000/- per acre, along with accrued interest and other benefits.

7. By way of reply the learned counsel appearing for the 1st respondent / appellant submitted that the Land Acquisition Officer, on verifying the data and sales statistics, pertaining to dry land for fixing the market value of the land acquired as of dry in nature, but the Reference Court enhanced the market value exorbitant from 250 to 1200 per cent by violating the procedures prescribed under the Land Acquisition Act by comparing the value of the land, by relying on the sale deed of wet land of the village and as such, it is erroneous one. Further, it is also submitted that the lower Court erroneously relied on Ex.C1 and C2 sale deeds without considering that those sale deeds were executed by the land owner to the private entrepreneur and the same could not be considered for fixing the market value of the land, thereby, he raised objection and also the enhancement prayed by claimants from Rs.1,200 per cent to Rs.1,500/- per cent. The land Acquisition Officer correctly fixed the price of the land by adopting comparable sale methods, which does not require any interference. Further, he would also raise objection for awarding interest and solatium and additional amount are contrary to the guidelines issued by the Apex Court, without deduction for development charges and therefore he prayed to dismiss the Cross-Objection and allow the appeal filed

by him.

8. The learned counsel for respondents 4 and 5 submitted that they are inclined to provide employment opportunity, but subject to the outcome of the pending proceedings before this Court. Admittedly the lands were acquired long back, and all these years, the claimants who are legal heirs, were not given any employment opportunity as assured by the authorities concerned at the time of acquisition.

9. Considering the submissions on either side and also on perusal of records, it reveals that the cross objector not accepted the market value fixed by the land acquisition officer as they refused to receive the compensation the entire claim was referred to reference Court, where the claimants requested to enhance the compensation from Rs.250 to Rs.1,500 per cent, by stating that the land acquisition officer was failed to take into consideration of the market value of the land at the time of acquisition and also without considering the value of the mineral deposited in that land and fixed a sum of Rs.250/- per cent as compensation by relying data sale deed of adjacent land as such is

totally erroneous and liable to be set aside. Further, to substantiate his claim the claimants relied the Ex.C1 and Ex.C2 sale deeds dated 11.12.1985 and 22.11.1995, wherein the value of the land was fixed as Rs.1500/- per cent and also lands are situated at adjacent to the land acquired by the State. Further, they also examined the Geologist as C.W.4, in order to prove the potential value of the land. By relying all those evidence they prayed to enhance the compensation from Rs.250/- to Rs.1,500/- per cent. On hearing both sides, reference court held that as per the Ex.C1 and Ex.C2 sale deeds, which were executed in the year 1995 before to the present land acquisition proceedings the value of the land per cent was fixed as Rs.1500 and in those sale deeds lands were conveyed to Ramco Cement Factory based on the prevailing market value of the year 1985 the sale consideration was fixed as Rs.1500/- per cent. But, the Trial court enhanced the compensation from Rs. 250/- to Rs.1200/- per cent by considering the potential value of the land as per the evidence of Geologist. Aggrieved over the same now Special Tahsildar land Acquisition preferred this appeal, the claimants who aggrieved over the findings of the reference Court filed cross objection before this Court prayed to enhance the value of the land from Rs.1200 to 1500/- per cent based on the sale deed Ex.C1 and Ex.C2.

10. On perusal of the records, it reveals that the sale deeds Ex.C1 and Ex.C2 executed in the year 1985 which prior to the present land acquisition proceedings and in that sale deeds land was acquired for Ramco Cement factory. But the said data sale deeds relied by the claimants was not consider by the Land Acquisition Tahsildar. Eventhough, the said sale deeds were executed before present land acquisition proceedings. Eventually, the said sale deeds have not taken into consideration by the land acquisition Tahsildar, for the reason that in order to hike price of the land the documents were purposefully created by the claimants. But admittedly as discussed above, these documents were executed by the vendors in the year of 1985 bute also the present acquisition starts in the year 1995, it is settled proposition that documents executed prior to the land acquisition proceedings would be taken into consideration while fixing the market value of the land. Furthermore, those lands were situated nearer to the land acquired by the special Tahsildar.

11.Admittedly, as per the evidence of C.W.4/Geologist the acquired land consist of high quality lime stone. Though he is private Geologiste, there is no contra evidence adduced on the side of the appellants to disprove his contention. It is an admitted fact that lot of cement factories in that area and also the lands are having high quality lime stone. Apart from that nature and quality of the land, whether they are irrigated or non irrigated, extent of facilities available for irrigation, location of the land **closeness** thereof from any road of high way also to be considered and the same was taken into consideration by the reference Court. Therefore, the value of the land with potentiality also to be taken into consideration and the same was rightly observed by the Trial Court and enhanced the compensation from Rs.250/- to Rs.1200/- per cent. However, the learned counsel for the cross objector filed the Cross objection stating as per sale deeds Ex.C1 and Ex.C2 the value of the land per cent Rs.1500/- but the reference Court fixed Rs.1200/- without assigning any reason only as such is erroneous. As rightly pointed out by the learned Cross Objector the reference Court ought to have fixed a sum of Rs.1500/- per cent instead it fixed a sum of Rs.1200/- per cent when the entire document of Ex.C1 and Ex.C2 is taken into consideration, therefore a sum of Rs.1500/- percent fixed. Accordingly, cross objection is allowed and in respect of other findings this Court does not find reason to interfere with the order of reference Court.

12. In respect of appeal filed by the state to recall the the enhancement,

as discussed above, Reference Court rightly relied Ex.C1 and Ex.C2 as well as C.W.4. On the other hand, acquisition Tahsildar relied the data sale deed of dry land as such is not applicable to the present case since because the present land contains lime stone with other potentialities. The objection raised by the state is not maintainable. Furthermore, the learned Government Pleader submitted that Reference Court failed to deduct 25% for developing charges while enhancing the compensation and prayed to deduct 25% for developing charges in the enhanced award amount. By way of reply the learned counsel for the cross objector/claimants submitted that earlier the cement factories are existed in that area from the year 1974 land were acquired for the purpose of implementation of Arasu Cement Factory. Hence, already substantial developments were in that area and there is no necessity for developing that area to support their contention they relied ratio laid down by the Supreme Court in Bhagwathula Samanna V. Special Tahsildar & Land Acquisition Officer, 1991 (4) SCC 506, wherein it was held thus:

> *In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale consideration. However, in applying this principle of deduction it is necessary to consider all relevant facts. It is not the extent of the area*

covered under the acquisition which is the only relevant factor. If smaller area within the largest tract is already developed and situated in an advantageous position suitable for building purposes and have all amenities such as roads, drainage, electricity, communications, etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

11. Further, he relied the ratio laid down in Nelson Fernandes And others V. Special Land Acquisition Officer, South Goa and others reported in (2007) 9 SCC 447:

> *30. We are not, however, oblivious of the fact that normally 1/3rd deduction of further amount of compensation has been directed in some case. However, the purpose for which the land is acquired must also be take in to consideration. In the instant case, the land was acquired for the contruction of new BG line for the Konkan Railways. This Court in Hansanali Khanbai 7 sons B. State of Gujarat and Land Acquisition Officer V. Nookala Rajamallu had noticed that where lands are acquired for specific purposes, deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise.......................*

12. As per dictum laid down in the referred cases, deduction of developing charges in enhanced amount is not permissible. **Accordingly, appeals are dismissed and cross objections are allowed.** Thereby, the value fixed by the Reference Court is enhanced from Rs.1200 to Rs.1500/- except that the other

findings of the Reference court is confirmed. Further, the land was acquired long back hence the Government is directed to pay the balance amount within a period of eight weeks from the date of receipt of a copy of this order. No costs.

29.01.2024

Index : Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No

rri/pbl

To,

1. The Subordinate Judge, Ariyalur.

2. The Section Officer, VR-Section,
   High Court of Madras, Chennai.

T.V.THAMILSELVI,J.

rri/pbl

A.S Nos.916, 938, 930, 926, 934, 927, 921, 920, 909, 924 of 2019 &
A.S Nos. 264, 262, 266, 248, 263 and 245 of 2020 &
Cross Obj. Nos. 96,92,97,93,94,95 of 2021

29.01.2024