



WEB COPY



AS No.636 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **12.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

A.S.No.636 of 2018

1. Tmt.S.Chinthamani
2. Tmt. Dr.Kananaki (Died)
3. P.K.Natarajan
4. N.Murughasakthipreethi ... Claimants/Appellants

Appellants 3 & 4 brought on record as Legal representatives of the deceased 2nd appellant viz (Dr.Kananaki) vide Court order dated 22.04.2022 made in CMP No.6906 dated 22.04.2022 made in AS No.636 of 2018 (MKKSJ & VSGJ)

Vs

1. The Additional Collector,
District Collectorate,
State Bank Road, Gopalapuram,
Coimbatore 641 018. ... Referring Officer/Respondent
2. The Food Corporation of India,
Peelamedu,
Coimbatore 641 004. ... Beneficiary /Respondent



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This appeal is filed under Section 54 of the Land Acquisition Act, 1894, to set aside the fair and decretal order dated 22.09.2017 passed in LAOP No.2 of 2009 on the file of the 1 Additional Subordinate Judge and Land Acquisition Tribunal of Coimbatore.

For Appellants : Mr.S.Parthasarathy, Senior Counsel
for M/s.P.Dinesh Kumar

For Respondents : Mrs.R.Anitha,
Special Government Pleader, for R1

Mr.S.Vijayakumar, Senior Counsel
for R2/Beneficiary

J U D G E M E N T

Challenge in the Appeal is to the award of the learned I Additional Subordinate Judge. Coimbatore, made in LAOP No.2 of 2009 a reference under Section 18 of the Land Acquisition Act, 1894.

2. The lands in question were acquired for the purposes of construction of Godowns for the Food Corporation of India and an award



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acre, less than a rupee per Sq.ft, for the lands which were situate on the outskirts of one of the very important Cities in South India viz. Coimbatore. Not satisfied with the compensation that was awarded by the Land Acquisition Officer, the land owner sought for a reference under Section 18 of the Land Acquisition Act, and the same was numbered as LAOP No.2 of 2009.

3. The land owners claimed that the lands are situate on the outskirts of Coimbatore and they have very high potential of being developed into residential plots and they sought for a compensation of Rs.20,00,000/- per acre. Before the Sub Court, the land owners produced almost 8 Sale Deeds, apart from producing the certified copy of the order in LAOP No.2 of 2004 which dealt with lands in Survey Nos.18/1B, 22/2 and 23/2 of a neighbouring Village viz. Krishanarayapuram which was also subject matter of acquisition for the same purpose.

4. The learned I Additional Subordinate Judge, however, rejected all the documents filed by the land owners on the ground that the lands covered by those documents are not situate in the same village and took into account the statistical data and the Sale Deed Ex.R4 which is dated

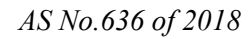


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29.06.1983 and affirmed the compensation awarded by the Land Acquisition Officer. Hence this Appeal.

5. We have heard Mr.S.Parthasarathy, learned Senior Counsel appearing for M/s.P.Dinesh Kumar, for the appellants, Mrs.Anitha, learned Special Government Pleader appearing for the first respondent and Mr.S.Vijayakumar, learned Senior Counsel appearing for the second respondent/Food Corporation of India.

6. Mr.S.Parthasarathy, learned Senior Counsel appearing for the appellants, would vehemently contend that the Trial Judge ought not to have refused to take into account the award passed in respect of lands which were covered by the very same acquisition. The learned Senior Counsel would also point out that in respect of land situate in Survey No.321/1 of Vilankuruchi Village and award was passed in LAOP No.7 of 2005 granting a sum of Rs.6,500/- per cent along with 30% solatium. He would also point out that the intended Appeal against the said award made in LAOP No.7 of 2005 was rejected by this Court, since the delay in filing the Appeal was not condoned. The petition for seeking condonation of delay in CMP 4292 of 2019 was dismissed by us on



7. Pointing out from the Eye evaluation Sketch, the learned Senior
sel would submit that the land subject matter of this Appeal is
e in Survey No.322 which is adjacent to Survey No.321 and
ore, the claimants should get the same compensation as was
led to the owner of the land in Survey No. 321/1 of the very same
e.

8. Contending contra, Mrs.Anitha, learned Special Government Pleader appearing for the first respondent and Mr.S.Vijayakumar, learned Senior Counsel appearing for the second respondent would submit that in respect of lands situate in very same village in Survey No.318 which was covered by LAOP No.51 of 1997, this Court had fixed the compensation at Rs.2800/- per cent and the petition for Special Leave to Appeal filed against the said judgment of this Court made in AS No.108 of 2005 was rejected by the Hon'ble Supreme Court and therefore, we should fix a sum of Rs.2,800/- per cent.



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9. We have considered the rival submissions.

10. The only question that arises is as to the compensation that the petitioner would be entitled to. This Court and the Hon'ble Supreme Court have repeatedly held that if the Court is to rely upon comparable sale methods, the land owners would be entitled to the highest value reflected in comparable sale deeds. The judgments of the Court are also no exception, if there are two judgments relating to the same area under acquisition, we have to necessarily grant the highest value that was granted by the Court in the connected cases. We have also seen the eye evaluation sketch and all the survey numbers viz. Survey Nos.318, 321, and 322 are abutting each other. In respect of Survey No.321/1 the Court has granted a sum of Rs.6,500/- per cent and that award has become final, since we had dismissed the application for condonation of delay in filing the Appeal against that award.

11. Hence the appellants would be entitled to the same amount as was granted in LAOP No.7 of 2005, i.e. a sum of Rs.6,500/- per cent. We therefore fix the compensation payable for the lands covered by this



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Appeal in Survey No.322 of Vilankuruchi Village at Rs.6,500/- per cent with all statutory benefits viz. additional amount under Section 23(1-A) of the Land Acquisition Act, Solatium at 30% and interest at 9% per annum for one year from the date of taking possession on the total amount viz. the market value i.e. 6,500/- per cent + 12% additional amount to be granted under Section 23(1-A) of the Land Acquisition Act, and the Solatium at 30% along with interest at 9% for one year from the date of taking possession and at 15% thereafter till date of payment.

12. We find that the appellants had sought only for Rs.5,000/- per cent, what is to be granted under Section 18 of the Land Acquisition Act, is the just compensation and therefore, we are not bound by the valuation in the Appeal. In the LAOP before the Trial Court, the appellants have sought for Rs.20,000/- per cent. Therefore, there is no bar in awarding Rs.6,500/- per cent. The appellants will, however, pay the Court Fee for the difference of Rs.1,500/- per cent.

13. In view of the above, the Appeal is **allowed**. Since it is stated that the Food Corporation of India has paid the entire compensation payable in LAOP No.7 of 2005, we direct the Food Corporation of India



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to pay the compensation in this case also within a period of three months

from today. There shall be no order as to costs.

(R.SUBRAMANIAN, J.) (R.SAKTHIVEL, J.)
12.04.2024

jv

Index : No
Internet : Yes
Speaking order
Neutral Citation: No

To

1. The 1 Additional Subordinate Judge
and Land Acquisition Tribunal,
Coimbatore.
2. The Section Officer,
V.R. Section,
Madras High Court, Chennai 104.



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