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A.S.No.546 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2024
(Reserved on 22.07.2024)

CORAM :

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

A.S.No.546 of 2023
and
CMP.Nos.18498 of 2023 and 8321, 11919 and 6621 of 2024

1. The Union of India, represented by
Secretary to Government (Revenue)
Puducherry.

2. Deputy Collector (Revenue)-cum-Land
Acquisition Officer,
Karaikal.

3. Director,
Tourism Department,
Puducherry.

... Appellants

vs.

K.Rajeswari

... Respondent

Prayer : Appeal filed under Section 54 of the Land Acquisition Act, 1894, to set aside the order dated 12.12.2019 passed by the Additional District Judge at Karaikal in LAOP.No.46/2017 by allowing the above appeal.

For Appellant : Mr.P.S.Kothandaraman, Government Advocate
For Respondents : Mr.M.Gnanasekar



A.S.No.546 of 2023

WEB COPY

JUDGMENT

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

The Union Territory of Puducherry is on appeal aggrieved by the Award made in a reference under Section 18 of the Land Acquisition Act, 1894, in LAOP.No.46/2017 on the file of the Additional District Judge, Karaikal.

2. An extent of about 57.53.87 hectares of land in Thirunallar town of Karaikal region of the Union Territory of Puducherry, was acquired for the development of the temple town particularly, for providing ring road and facility node. A notification under Section 4(1) of the Land Acquisition Act was made on 06.08.2007. A declaration under Section 6 was made on 22.07.2009 and an Award came to be passed by the Land Acquisition Officer on 29.09.2010 granting a sum of Rs.50,000/- per Are. Claiming that the said compensation awarded by the Land Acquisition Officer is too low, the land owners / claimants sought for a reference under Section 18 of the Land Acquisition Act, 1894. Upon the reference having been made, the land owners filed a claim statement seeking a sum of Rs.1,50,000/- per Are. Apart from contending that the properties in question are situate within the town in the vicinity of Sri Dharbaranyeswara Swamy Temple, a famous temple in south



A.S.No.546 of 2023

India and an Abode of Lord Sani (saturn), it was also pointed out that the very project was for development of the temple town for providing facilities to lakhs of pilgrims who visit the temple. Reliance was also placed on various transactions of sale, where, the land in the vicinity was sold for more than a lakh and fifty thousand per Are. The claim was resisted by the respondent / Land Acquisition Officer contending that the respondent had collected sale statistics from the office of the Sub Registrars and has gone by the sale statistics to fix the compensation at Rs.50,000/- per Are. In the trial, before the learned Additional District Judge, the claimant examined herself as CW1 and also examined one Marie Camala Ryan as CW2. Exs.C1 to C8 were marked. One K.P.Sreejith was examined as RW1 and Exs.R1 to R4 were marked. While Exs.R1 and R2 are the Award proceedings and Award respectively, Ex.R3 is the Sale Data and Ex.R4 is the Topo Sketch. On the consideration of the above evidence on record as well as the principles laid down by the Hon'ble Supreme Court and this Court in matters relating to fixation of compensation, the learned Additional District Judge fixed the compensation at Rs.1,50,000/- per Are. It is this Award which is under challenge before us in this appeal. The Government has also filed CMP.No.11919 of 2024 under Order 41 Rule 27 of the Civil Procedure Code, seeking to produce certain documents which were relied upon by the Award Officer for fixation of the compensation.



A.S.No.546 of 2023

WEB COPY

3. We have heard Mr.P.S.Kothandaraman, learned Government Advocate appearing for the appellant and Mr.M.Gnanasekar, learned counsel appearing for the respondent.

4. Mr.Kothandaraman, learned Government Advocate appearing for the appellant would vehemently contend that the learned Additional District Judge had erred in taking into account the sale deeds which were very close to the date of 4(1) notification. According to him, the fact that the lands were to be acquired for the purpose of developing the temple town, was known to the people in the locality and therefore, there was an attempt to jack up the prices by entering into transactions for very small extents of land. Learned counsel would point out that Ex.C5 dated 30.03.2007, which has been taken as the basis for determination of compensation, was just three months prior to the acquisition and therefore, there was always a possibility of the parties jacking up the values for the purpose of getting more compensation. Learned Government Advocate would also submit that the additional documents that have been produced would show that around the same time as Ex.C5 i.e., on 16.03.2007 and 28.03.2007, land in the area has been sold for much lesser



price. Therefore, according to the learned counsel, the Reference Court was not justified in fixing the compensation at Rs.1,50,000/- per Are. Learned Government Advocate would submit that the documents that have been produced now would help this Court in resolving the issue regarding compensation and hence, they should be received in evidence.

5. Contending contra, Mr.Gnanasaekar, learned counsel appearing for the respondent would submit that the sale statistics that is sought to be produced was taken only for one year as against the normal practice of taking sale statistics for a period of three years. Learned counsel would further submit that the purpose of acquisition namely, for construction of a ring road and to provide facilities to the pilgrims, was also taken into account by the trial Court, where, it pointed out the entire land that is acquired, will be used for the purpose of acquisition and the extent of land covered by the sale deeds that were taken as exemplars by the trial Court, also being of very small extent, there cannot be a deduction on the ground of largeness in area or for development charges. Learned counsel would also point out that the Hon'ble Supreme Court and this Court have consistently held the view that where land is taken away from a person exercising the power of Eminent domain, the owner of such land, who is deprived of the property against his wishes, would



A.S.No.546 of 2023

be entitled to the highest value and normally, the Courts take into account the highest value reflected in the exemplar sale deed to determine the compensation. This view taken by the Hon'ble Supreme Court as early as in 1963 in **M.Vijayalakshamma Rao Bahadur Rane of Vuyyur v. Collector of Madras** reported in **1968(2) SCJ 869 : 1969(1) MLJ 45 : 1969(1) An.WR 45**, has been subsequently followed in **Subh Ram and others vs. State of Haryana and another** reported in **(2009) 13 Scale 528** and **Nelson Fernandes vs. Special Land Acquisition Officer** reported in **(2007) 9 SCC 447**. A Division Bench of this Court in **The Special Tahsildar (LA), Krishna Water Supply Project Unit-3, Tiruvallur, vs. Rathinareddi** reported in **2003-2-L.W. 267**, has also reiterated the position of law that the land owner would be entitled to the compensation fixed on the basis of the exemplar sale deed which reflects the highest value. It is the further contention of the learned counsel that the lands in subject matter of this appeal are situate very close to the temple and as such, the learned trial Judge was right in granting a sum of Rs.1,50,000/- per Are.

6. The learned counsel would also further point out that apart from marking copy of the sale deed dated 12.03.2007 under which 2 Ares of land was sold for Rs.3 lakhs, the claimant has also marked the income-tax returns of



A.S.No.546 of 2023

the vendor. The Bank statement of the business firm of the purchaser was also marked as Ex.C2, which would show that the transactions under Ex.C2 are genuine transactions and they cannot be construed as documents brought about with an intent to jack up the market value of the property. The Topo Sketch which has been filed as Ex.R4 is also relied upon by the learned counsel to contend that the land covered by Exs.C1 and C3 is very close to the acquired lands and the value therein could be very safely taken to reflect the market value of the property, subject matter of acquisition, situate in Survey No.54/4 measuring about 26 Ares and 75 cents. The learned counsel would also further point out that the land is also well connected by roads on two sides and it possesses all advantages.

7. We have considered the rival submissions.

8. We will first deal with the application for production of additional evidence. Though it is a settled law that the sale statistics and the Award of the Land Acquisition Officer alone will not constitute evidence of the market value of the lands and the claimant or the acquisition officer should produce the documents which are relied upon to show the value of the land, the acquisition officer, however, did not produce those documents at the time of trial. They



have now come up with those documents. In any event, we find that both the documents relate to property situate in the vicinity of the property subject matter of acquisition and they are situate in Thirunallar Town. We, therefore, find that those documents could be of some use for us in determining the compensation payable to the lands that are under acquisition. Though we find the reasons assigned for non production are not very satisfactory, we deem it fit to allow the application and receive those documents in evidence. It is a settled law that marking of sale deeds of comparable land in the land acquisition proceedings is sufficient and the examination of the parties to those instruments is unnecessary. We receive those documents and mark them in evidence as Exs.R5 to R7 and proceed to dispose of this appeal. CMP.No.11919 of 2024 will, therefore, stand allowed.

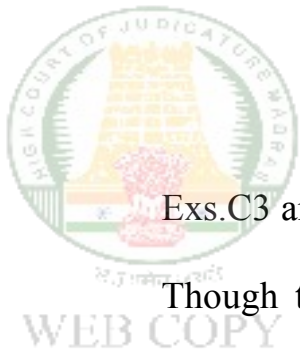
9. Adverting to the appeal, we find that the purpose of acquisition is for development of the temple town and laying of arterial roads. Though the total land under acquisition is about 57 hectares, the acquisition is of very small parcels of land from several land owners. The extent of the land that is sought to be acquired from the respondent in this appeal is 26 Ares and 75 cents in Thirunallar Revenue Village. The 4(1) notification was issued on 23.07.2007 and it was published in the Gazette on 06.08.2007. The exemplar sale deeds



A.S.No.546 of 2023

that have been produced are all documents that emanated during February and March 2007 except Ex.C6 which is dated 07.06.2007. The documents that have been produced as additional documents by the State namely, two sale deeds which are also of the same time namely, March 2007. We find that the land covered by the sale deed dated 16.03.2007 which has been received in additional evidence and marked as Ex.R6 is situate in Survey No.50 of Thirunallar Village and it is the landlocked property and it has no road frontage. From the boundary descriptions made in the document, we find that it is encompassed to the private lands on all four sides. Therefore, we do not think it will be appropriate to rely upon the value reflected in the said sale deed to fix the value of the land acquired.

10. The other document namely, sale deed dated 28.03.2007 relates to Survey No.162. This is also a landlocked property and it has no road frontage. It is bounded on the east by a footpath which leads to the temple tank. Therefore, we do not think it will be safe to rely upon the said document to fix the value of the land under acquisition. We find that the land under acquisition is bounded on the north as well as the west by roads. The other sale deeds namely, Ex.C1 relates to land under acquisition itself and Ex.C5 relates to land in Survey No.167 which is bounded on the south and the north by roads.



Exs.C3 and C4 are also of lands which are abutting the lands under acquisition.

Though they are situate on the other side of the temple, all these lands are situate within a very few meters from Dharbaranyeswara Swamy Temple and they possesses similar advantages. Therefore, we find that it will be proper for us to take into account those documents for fixation of the value of the land under acquisition. We must also bear in mind the settled position of law that the owner of the land under acquisition who is deprived of his property, is entitled to the highest value reflected by the exemplar sale deeds. The land covered by Ex.C5 is very near the acquired land and the value reflected by Ex.C5 is Rs.1,78,378/- per Are. Though the learned Government Advocate would contend that sales of these lands are very proximate to the notification date and therefore, they should not be taken into account, the same argument would apply to the two documents that are now produced by the Government also and both the documents are in March 2007 which is also very proximate to the notification date. While exemplar method is adopted for determination of the value of the land, the previous sale deed that is very closer to the date of 4(1) notification should alone be taken into account. Apart from producing the sale deeds, the claimant has also produced the bank account statement of the purchaser under Ex.C2 and the income-tax returns of the vendor under Ex.C8. These two documents would demonstrate that the sale transactions cannot be



A.S.No.546 of 2023

said to be fictitious. We find that the learned trial Judge had considered these documents and has concluded that it will be safe to fix the value of the land at Rs.1,50,000/- per Are. The learned Government Advocate would vehemently contend that some deduction should have been made for development charges. Deduction for development charges or largeness in area can be made only when very large extent of land is acquired from a single individual and an exemplar sale deed for a very small extent of developed plot is taken into account for determination of the market value. That is not the case here. Though 57 and odd hectares of land is sought to be acquired, we find that it is sought to be acquired from several owners and the Hon'ble Supreme Court has repeatedly held that if small parcels of land are acquired from several owners, the extent of land acquired from each of the owner should be taken into account in order to decide the largeness in area. The land acquired in this appeal is of an extent of about 26 Ares and the exemplar sale deeds are for an extent of about 2 to 3 Ares. The purpose of acquisition should also be taken into account while determining the quantum of deduction. The purpose of acquisition is for laying of roads and providing facilities to the pilgrims. There cannot be any wastage of land for provision of pathways or other public amenities as in the case of a housing project. Hence, the learned trial Judge has rightly held that no development charges need be deducted. We, therefore, do not find any



A.S.No.546 of 2023

illegality or infirmity in the Award of the trial Court to enable interference at our hands. The Appeal Suit is, therefore, dismissed, however, in the circumstances of the case, without costs. CMP.Nos.18498 of 2023 and 8321 and 6621 of 2024 are closed.

(R.S.M, J.) (R.S.V, J.)
27.09.2024

Index : Yes
Neutral Citation : Yes
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To

The Additional District Judge,
Karaikal.



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A.S.No.546 of 2023

R.SUBRAMANIAN, J.

and

R.SAKTHIVEL, J.

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PRE-DELIVERY JUDGMENT

MADE IN

A.S.No.546 of 2023

DATED : 27.09.2024