



C.R.P.(NPD)No.340 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.340 of 2023

and

C.M.P.No.2856 of 2023

The Special Tahsildar (LA)
Tamil Nadu Road Sector Project
Virudhachalam

.. Petitioner

Vs.

Dhanasekar

.. Respondent

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the decree and judgment passed in L.A.O.P.No.560 of 2013, dated 21.08.2017, on the file of the learned Special Subordinate Judge for LAOP Cases, Cuddalore.

For Petitioner : Mr.T.Arunkumar
Additional Government Pleader

ORDER

The present Civil Revision Petition arises against an order passed by the learned Special Subordinate Judge for LAOP cases at Cuddalore in L.A.O.P.No.560 of 2013 dated 21.08.2017.



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2. When the revision came up for disposal, I entertained a doubt whether it is maintainable, since the Award granted by the Sub Court in L.A.O.P. proceeding amounts to a decree.

3. Mr.T.Arunkumar, learned Additional Government Pleader, appearing on behalf of the petitioner would draw my attention to the judgment of this Court in A.S.No.512 of 2011, dated 07.04.2016, to the effect that an Award passed under the Tamil Nadu Highways Act, 2001 is not susceptible to an appeal in the same terms as an Award passed under the Land Acquisition Act, 1894.

4. He would also draw my attention to a judgment of this Court in Rev.Petn.No.98 of 2016, dated 30.01.2019, to press on the point that when an order is passed under the Tamil Nadu Highways Act, an appropriate remedy is only by way of a revision under Article 227 of the Constitution of India.



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5. Being satisfied with the maintainability of the revision, I now proceed to deal with the merits of the case.

6. It is the submission of Mr.T.Arunkumar that the property is an agricultural land for which the trial Court has fixed the value in terms of square feet instead of fixing the value in terms of cents. He would state that for agricultural lands, the quantification should be in 'cents' or in 'acres' but not in 'square feet'. On this short point, he would urge that the order passed by the learned Special Subordinate Judge for LAOP Cases be set aside and the order passed by the Special Tahsildar, Land Acquisition be restored.

7. I have carefully gone through the order and through the records available.

8. The undisputed facts are that the lands were acquired pursuant to a notification issued by the Government on 08.04.2003. The purpose of acquisition was for creation of a by-pass road in Virudhachalam, and also for creation of access roads in Virudhachalam Town and Taluk, Cuddalore District.



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9. A perusal of the Award passed by the Collector, dated 23.03.2009, would show that this property is covered in Item No.8 of the said Award. Item No.8 was originally under the Survey No.49/3B, and subsequently, after the creation of the Town of Virudhachalam, it was given Town Survey No.27/7, Block No.6, Ward 'G' of Poonthottam Village, Virudhachalam Taluk, Cuddalore District. Since the said property has come under the town survey, it is clear that it was no more treated as an agricultural land but was treated as a land within the town of Virudhachalam. The Collector had passed an Award on the basis of a sale deed registered on 13.03.2008 for R.S.Nos.53/5 and 53/2 to an extent of 12 cents. The said property had been sold for a sum of Rs.24,000/-. If this is converted in terms of square feet, then the value per square feet only comes to Rs.4.58/- per sq.ft.

10. Not being satisfied with the amount fixed by the District Collector in terms of Section 19 of the Tamil Nadu Highways Act, 2001, a reference was sought under Section 20 of the said Act.



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11. The reference was originally taken on file as L.A.O.P.No.5 of 2009 by the learned Subordinate Judge at Virudhachalam. Thereafter, it stood transferred to the file of the learned Special Subordinate Judge for LAOP cases at Cuddalore and re-numbered as L.A.O.P.No.560 of 2013.

12. During the course of trial, the claimant examined himself as P.W.1, and marked his title deed to the property as Ex.P1. The Special Tahsildar did not even grace the witness box nor did he file any records before the Special Court. As there was no co-operation either from the petitioner or the respondent, the learned Special Judge following the verdict of the Supreme Court in ***Khazan Singh (Dead) by LRs vs. Union of India [(2002) 2 SCC 242]*** proceeded to fix the compensation on the basis of the available records. She also perused the Award on the basis of which the reference had been made. She found that the Award Officer had not even enclosed the village map in the Award for the purpose of comparing the location of the land under acquisition and the land whose value had been taken as reference for the fixation of value.



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13. It is settled position of law that while determining the market value of the land under acquisition, the Court has to see the value of those lands that are similarly situated with the same potentiality, fertility and quality as of the acquired land. Unless and until this exercise is done, it does not satisfy the requirements of granting a just and fair compensation to the land owner.

14. The learned Judge had called for a report from the Joint Sub-Registrar of Virudhachalam in order to ascertain the market value. The Joint Sub-Registrar had sent a report stating that the guideline value pertaining to the lands acquired for the period from 01.08.2007 to 31.03.2012 was Rs.100/- per Sq.ft. The learned Judge took this value into consideration, and fixed the value of land at Rs.100/- per Sq.ft. No exception can be taken to the procedure that has been adopted by the learned Special Subordinate Judge.

15. Insofar as the trees are concerned, she accepted the Award of the District Collector, since no evidence had been let in by the claimant/respondent herein as to the value of the trees or their age.



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Consequently, she passed an order fixing the value of the land at Rs.100/- per Sq.ft., and insofar as the trees and other structures on the property are concerned, she fixed the value for them at the same rate as fixed by the District Collector.

16. Mr.T.Arunkumar would submit that the impugned order is vitiated on two grounds. The first ground, as pointed out above, is that it is an agricultural land. This argument does not stand a moment's scrutiny, because even the Award Officer had reflected in his Award that the property under acquisition was in town survey, though it was classified as dry.

17. As rightly pointed out by the learned Special Subordinate Judge, the Award Officer did not even enclose the village plan in order to show that the reference sale deed is connected with the land under acquisition. The learned Judge with the available materials had come to the conclusion that the value of land is Rs.100/- per Sq.ft., and I do not find any reason to interfere with the same.

18. The second point urged by Mr.T.Arunkumar is that the LAOP had



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been dismissed for default on 09.07.2015 and restored only on 15.06.2017, and therefore, for this period, the Court ought not to have granted interest.

The Supreme Court speaking through the judgment of *Justice K.T.Thomas* in ***Khazan Singh (Dead) by LRs vs. Union of India [(2002) 2 SCC 242]*** had clearly and categorically held that the land acquisition proceeding is not in the nature of the suit but a reference to the Court. He had also held that a reference cannot be dismissed for default but the Court would have to proceed with the available materials and answer the reference. Hence, the argument of Mr.T.Arunkumar that the period from 09.07.2015 to 15.06.2017, the period during which the LAOP proceeding had been dismissed for default and restored, ought to be excluded cannot be accepted. The order of dismissal, dated 09.07.2015, itself is contrary to the verdict of the Supreme Court, and therefore, the period during which the LAOP proceeding was dismissed for default cannot be taken into consideration to reduce the value of the land.

19. In the light of the above discussion, as the learned Special Subordinate Judge had taken efforts on her own to ascertain the market value, and had come to the conclusion that the value of land is Rs.100/- per



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Sq.ft., I do not find any reasons to interfere with the order passed by the learned Special Subordinate Judge for LAOP Cases, Cuddalore.

20. Accordingly, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

01.08.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The learned Special Subordinate Judge for LAOP Cases,
Cuddalore

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and

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