



WEB COPY



CRP.Nos.3531 & 4091 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

CRP.Nos.3531 & 4091 of 2022
and CMP.No.21255 of 2022 in CRP.No.4091 of 2022

CRP.No.3531 of 2022 :

1.The Land Acquisition Officer
and District Collector
Collectorate Office, Kancheepuram.

2.The Tahsildar
Land Acquisition
IT Express Way Scheme
Taluk Office, Tambaram.

... Petitioners

Vs

1.A.Jeenasenan
2.I.Abishek

... Respondents

CRP.No.4091 of 2022 :

1.A.Jeenasenan
2.I.Abishek

... Petitioners

Vs

1.The Land Acquisition Officer
and District Collector
Collectorate Office, Kancheepuram.



CRP.Nos.3531 & 4091 of 2022

2.The Tahsildar
Land Acquisition
IT Express Way Scheme
Taluk Office, Tambaram.

... Respondents

Prayer in CRP.No.3531 of 2022 : Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the judgment and decree in LAOP.No.8 of 2016 dated 19.01.2017 on the file of Additional Subordinate Judge, Chengalpattu.

Prayer in CRP.No.4091 of 2022 : Civil Revision Petition filed under Article 227 of Constitution of India praying to enhance the compensation than what has been ordered by the Subordinate Judge, Chengalpattu, in LAOP.No.8 of 2016 dated 19.01.2017.

CRP.No.3531 of 2022 :

For Petitioners : Dr.S.Suriya
Additional Government Pleader
For Respondents : Mr.N.Manoharan

CRP.No.4091 of 2022 :

For Petitioners : Mr.N.Manoharan
For Respondents : Dr.S.Suriya
Additional Government Pleader



CRP.Nos.3531 & 4091 of 2022

WEB COPY

COMMON ORDER

These revisions arise against the award passed by the Land Acquisition Officer in Award No.10 of 2011 dated 30.08.2011, which was modified by the learned Additional Subordinate Judge, Chengalpattu in LAOP.No.8 of 2016, dated 19.01.2017. For the sake of convenience, the parties shall be referred to as 'land owners' and 'acquisition body'.

2. The respondents in CRP.No.3531 of 2022, who are arrayed as petitioners in CRP.No.4091 of 2022 are the land owners. According to the land owners, they had purchased the property on 21.09.2007. Proceedings were initiated by the Government under the Tamil Nadu Highways Act, 2001 to acquire an extent of 14,289 sq.mtrs. The purpose of acquisition was six laning a highway, namely, the Old Mahabalipuram Road in order to form an IT Corridor Express Way. The Government issued a notification under Section 15(2) of the Tamil Nadu Highways Act on 31.07.2008. This 15(2) notification was confirmed by 15(1) notification on 12.05.2009. The property that had been purchased by the land owners on 21.09.2007 was the subject



CRP.Nos.3531 & 4091 of 2022

matter of acquisition.

WEB COPY

3. An award came to be passed on 30.08.2011 vide Award No.10/2011, granting compensation of Rs.8,073/- per sq.mtr. The land owners felt aggrieved over the compensation value fixed, they preferred W.P.No.10600 of 2014 seeking a reference to the Civil Court as contemplated under the Act. An order came to be passed 28.01.2016, directing the matter to be referred to the Civil Court for determining the compensation amount.

4. The reference was numbered as L.A.O.P.No.8 of 2016 before the Additional Subordinate Judge, Chengelpattu. The learned Judge in his order dated 19.01.2017 enhanced the compensation from Rs.8,073/- per sq.mtr. to Rs.29,417/- per sq.mtr. Challenging the enhancement, the land acquisition authority preferred A.S.No.51 of 2019 before this Court. At the time of hearing the appeal, a Division Bench of this Court felt that an appeal is not maintainable under the Tamil Nadu Highways Act, and therefore, the appropriate remedy would only be a civil revision petition. Consequently, A.S.No.51 of 2019 was renumbered as CRP.No.3531 of 2022.



CRP.Nos.3531 & 4091 of 2022

5. The land owners, not being satisfied with the compensation fixed by the Civil Court, have preferred a revision in CRP.No.4091 of 2022.

6. Since the challenge in both these revisions relate to the same award and order in LAOP.No.8 of 2016, they were clubbed together and heard by me.

7. Heard Dr.S.Suriya, learned Additional Government Pleader for the acquisition body and Mr.N.Manoharan for the land owners.

8. Dr.S.Suriya drew my attention to the typed set of papers filed by her in CRP.No.3531 of 2022 (the revision preferred by Land Acquisition Body), in particular, the two sale deeds, both dated 21.09.2007, registered as Doc.No.9252/2007 and Doc.No.9253/2007. She would submit that these two documents relate to the very property which are the subject matter of acquisition. According to her, it was only under these documents, the land owners herein had purchased their property from their erstwhile owner namely one Parvathi Raman. She would also contend that as per these sale deeds, the value of the property was Rs.750/- sq.ft., & the land owners having purchased the property for the said value, cannot now seek a higher value than the price



CRP.Nos.3531 & 4091 of 2022

at which they have purchased.

WEB COPY

9. Mr.N.Manoharan has drawn the attention of the Court to the exhibit marked by the land owners/claimants namely Ext.C1. This is a sale deed dated 08.08.2007 executed in favour of one M/s.FL Smidth Pvt. Ltd., who is the adjacent land owner of the claimants. Here the said purchaser vide Ext.C1 had purchased the property at Rs.2,905/- per sq.ft. i.e., Rs.31.301/- per sq.mtr. This document admittedly covers a larger extent than what had been purchased by the land owners herein. He had also brought to the notice of the Court that in a similar acquisition in LAOP.No.6 of 2015 before the Additional Subordinate Judge, the Ext.C1, sale deed dated 08.08.2007 which is now relied on by the land owners herein, was also relied on by the claimant therein, and the learned Judge upon placing reliance on Ext.C1, had enhanced the compensation. This was challenged by the Land Acquisition Authority in CRP.No.812 of 2021. The learned Single Judge of this Court confirmed the award in LAOP.No..6 of 2015 and dismissed the said CRP.

10. In support of his contention, Mr.N.Manoharan placed reliance on the judgment of Supreme Court in ***Sri Rani M.Vijayalakshnamrna Rao***

***Bahadur, Ranee of Vuyyur Vs The Collector of Madras [1969 (1) MLJ 45]***

and it is relevant to extract paragraph No.2 of the said judgment.

"..... After all when the land is being compulsorily taken away from a person, he is entitled to say that he should be given the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. It is not disputed that the transaction represented by Exhibit R-19 was a few months prior to the notification under Section 4 that it was a bonafide transaction and that it was entered into between a willing purchaser and a willing seller. The land comprised in the sale deed is 11 grounds and was sold at Rs.1,961 per ground. The land covered by Exhibit R-27 was also sold before the notification but after the land comprised in Exhibit R-19 was sold. It is true that this land was sold at Rs.1,096 per ground. This however is apparently because of two circumstances. One is that betterment levy at Rs.500 per ground had to be paid by the vendee and the other that the land comprised in it is very much more extensive, that is about 93 grounds or so. Whatever that may be, it seems to us be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. In any case we see no reason why an average of two sale deeds should have been taken in this case."



CRP.Nos.3531 & 4091 of 2022

WEB COPY

11. I have heard both sides and considered the rival submissions. One difficulty that has to be looked into is that the documents which Dr.S.Suriya relies upon had not been produced either by the claimants or by the respondents in LAOP proceedings. However, these documents are relevant for the purpose of the case because it is only under these documents viz., Doc.No.9252/2007 and Doc.No.9253/2007 dated 21.09.2007, the land owners herein had purchased the properties. The purchase was in 2007 and it quickly followed with an acquisition on 31.07.2008. The acquisition by the Government is just ten months from the date of purchase.

12. I cannot take the above documents (both sale deeds dated 21.09.2007) into consideration, just because the learned Government Pleader has merely produced it before me in her revision petition and required to consider it in support of her defence. It requires a oral and documentary evidence to arrive at the correct value. Neither I am persuaded by the arguments of Mr.N.Manoharan that since Ext.C1, sale deed dated 08.08.2007, has been relied upon by the other land owners, it would stand to this case also. Even if he had purchased the land at a lesser rate, he is entitled to the value



CRP.Nos.3531 & 4091 of 2022

that was fixed under the said document. Therefore, I am not in a position to arrive at a definitive conclusion on the value of the land. This requires production of two sale deeds dated 21.09.2007 under which the land owners have purchased the properties, and the document under Ext.C1.

13. It has been settled by the judgment of the Supreme Court in ***Dollar Company Vs Collector of Madras*** [(1975) 2 SCC 730], that the best evidence on the value of the property is the sale value of the property to which the claimant is also a party.

14. In the light of the above observation of the Supreme Court, and since the documents that had been relied on by Dr.S.Suriya have not been produced before the Courts below, in the interest of justice, it would be appropriate if the order of learned Additional Subordinate Judge impugned herein is set aside and the matter is remitted to the said learned Judge for *denovo* consideration

15. At this juncture, Mr.N.Manoharan, would point out that before the properties were acquired, for an extent of 5 ½ cents of properties, he had



CRP.Nos.3531 & 4091 of 2022

entered into an registered agreement for a value higher than under Ext.C1. He would submit that the purchase itself was a distress sale and hence, the actual value was fixed for the property.

16. In these circumstances, I am of the considered view that both the parties are entitled to let in oral and documentary evidence to prove the value of the property. Accordingly, the land owners are permitted to let in evidence on the enhanced value of the property. The acquisition body is also permitted to let in evidence with respect to actual market value of the property, including the production of two sale deeds dated 21.09.2007, which they rely in the present revision in CRP.No.3531 of 2022.

17. By consent, both sides will appear before the learned Subordinate Judge, Chengalpet on 10.06.2024.

18. To conclude, both the revisions in CRP.No.3531 of 2022 and CRP.No.4091 stand allowed. The judgment and decree in LAOP.No.8 of 2016 dated 19.01.2017 on the file of Additional Subordinate Court, Chengalpattu, is set aside and LAOP.No.8 of 2016 will stand restored on to its



CRP.Nos.3531 & 4091 of 2022

file. The learned Subordinate Judge, Chengalpattu is required to decide the matter afresh. No costs. Consequently, connected miscellaneous petition is closed.

22.04.2024

Index:Yes/No
Speaking order/Non-speaking order
ds

To:

- 1.The Subordinate Judge
Chengalpattu.
- 2.The Section Officer
VR Section, High Court, Madras.



WEB COPY



CRP.Nos.3531 & 4091 of 2022

V.LAKSHMINARAYANAN,J.

ds

CRP.Nos.3531 & 4091 of 2022

22.04.2024