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C.R.P. No. 1074 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

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THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P. No. 1074 of 2021

1. Pazhani

2. Ramesh

... Claimants / Petitioners / Appellants

Vs.

The Collector,
Villupuram District,
Villupuram.

... Referring Officer / Respondent / Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, to set aside the decree and judgment dated 19.09.2017 passed in L.A.O.P. No. 77 of 2010 on the file of the I Additional Subordinate Judge, Villupuram.

For Petitioners : M/s. S.Padma

For Respondent : Mr. C.Sathish
Government Advocate

ORDER

This Civil Revision Petition has been preferred as against the order dated 19.09.2017 passed in L.A.O.P. No. 77 of 2010 on the file of the I



Additional Subordinate Judge, Villupuram, wherein, the petitioners herein have filed petition challenging the Award made under Section 18 read with Section 4(1) of Land Acquisition Act, 1894 and the same was dismissed by confirming the compensation amount fixed by the Referring Officer. Against which, the present Civil Revision Petition is filed.

2. According to the petitioners, they are the owners of the land in R.S. No. 672/10B for an extent of 0.10.0 ares and in R.S. No. 714/1B for an extent of 0.04.0 ares in Thirukovilur Taluk. The respondent acquired the above said lands for formation of road through proceedings in No. B2/6258/2004 dated 08.11.2005. The Referring Officer fixed the amount for a sum of Rs.33/- per square feet but the actual value is Rs.100/- per square feet. The claimants have received the said amount with protest with regard to the amount fixed by the respondent at the rate of Rs.33/- per square feet. The guideline value of the above said lands and house sites is Rs.1080/- per square metre. The same respondent fixed the rate as Rs.61/- per square feet through proceedings in Na.Ka.B2/14995 dated 26.08.2004 that was not accepted by the petitioners since the guideline value is Rs.100/- per square feet. Already the petitioners/claimants were filed writ petition in W.P. No. 7666 of 2009 before this Court and the Court was passed order dated 24.04.2009 directing the



respondent to refer the matter to appropriate Court. The above said house sites are very near to the National Highways and State Highways and there are Government Officials very near to the said house sites. The Referring Officer is failed to furnish the accurate guideline value certificate and awarded only lesser value of Rs.33/- per square feet. Therefore, the petitioners are entitled to get higher compensation. Therefore, the order passed by the respondent is to be modified.

3. According to the respondent, the properties were acquired from the claimants for construction of Thirukovilur Bypass Road and the compensation was awarded taking into consideration of the locality, irrigation facility, Tharam and potentiality of the property and also after duly considering the claim to be made by the claimants in the future. The claimants themselves inflated the market value. The Referring Officer perused the relevant records considered the data sale deeds from 01.01.2001 to 31.08.2003 and the market value was fixed as Rs.55,000/- per acre and fixed as Rs.33/- per square feet. Therefore, the Trial Court correctly dismissed the petition by holding that the award passed by the Referring Officer is in terms of the documents.



4. Before the Trial Court, on the side of the petitioners, CW1 and CW2 were examined and Ex.C1 to C6 were marked and on the side of the respondent, RW1 was examined and Ex.R1 to R4 were marked and Court witness CW1 was examined and Ex.X1 and X2 were marked. The Trial Court, after considering the evidences adduced on either side, confirmed the order passed by the Referring Officer.

5. The learned counsel appearing for the petitioners would contend that the lands of the petitioners were acquired by the respondent for forming of road and the Referring Officer has fixed the meagre rate as Rs.33/- per square feet but in fact, the market value is Rs.100/- per square feet. Even as per the respondent in the earlier proceedings in Na.Ka.B2/14955 dated 26.08.2004, the guideline value fixed at the rate of Rs.61/- per square feet but now for these properties, only fixed at the rate of Rs.33/- per square feet and the same is liable to be enhanced. In order to prove the case, CW1 and CW2 were examined and as per the documents filed by the petitioners, the guideline value of the property is Rs.100/- per square feet. Therefore, the order passed by the Trial Court is liable to be enhanced.



6. The learned Government Advocate appearing for the respondent would contend that the properties of the petitioners were acquired by the respondent for forming road and the Referring Officer has fixed the market value of the properties as Rs.33/- per square feet based on the sale deeds for the periods from 01.01.2004 to 31.12.2006. The documents filed by the petitioners are self serving documents and after notification, they in order to get more compensation, created the documents. Therefore, those documents are no way helpful to decide the claim of the petitioners. The Trial Court, after considering the evidences adduced on either side, correctly dismissed the petition by confirming the order passed by the Referring Officer. Therefore, the present Civil Revision Petition is liable to be dismissed.

7. This Court heard both sides and perused the materials available on record.

8. In this case, there is no dispute in respect of the ownership of the properties and the claimants are the owners of the properties and the properties were acquired by the respondent. According to the petitioners, the guideline value of the properties is Rs.100/- per square feet and according to the respondent, the guideline value of the properties is Rs.33/- per square feet.



Therefore, the Referring Officer has fixed the above said rate as Rs.33/- per square feet. In order to prove the case, on the side of the petitioners, CW1 and CW2 were examined and Ex.C1 to C6 were marked and on the side of the respondent, RW1 was examined and Ex.R1 to R4 were marked and Court witness CW1 was examined and Ex.X1 and X2 were marked. The petitioners side evidences reiterated the contention that the property value is Rs.100/- per square feet and the respondent side evidences denied the said value that those documents were self served documents. On perusal of the Court witness/CW1 and Ex.C1, it reveals that the Sub Registrar, Thirukovilur has issued certificate by stating that the value of the property in S.F. No. 714/1 from 01.01.2004 to 31.12.2006 is Rs.61/- per square feet. The said Sub Registrar was also examined as CW2 and he also stated the guideline value of the properties as Rs.61/- per square feet. The Court witness was also examined as CW1, who is the present Sub Registrar of Thirukovilur and he stated that the guideline value of the properties is Rs.33/- per square feet but while registering the properties, stamp duty will be collected on the basis of sale deed which have been registered for higher value and Rs. 61/- was stated as guideline value in the letter issued to the Claimants. Therefore, the evidences shows that the guideline value of the properties is Rs.61/- per square feet. The Trial Court failed to consider the above said evidences and confirmed the



order passed by the Referring Officer that the guideline value fixed as Rs.33/- per square feet. Therefore, the order passed by the Trial Court is unsustainable and this Court based on the evidences, fixed the guideline value of the properties as Rs.61/- per square feet and also the petitioners are entitled to solatium at 30 %.

9. In the result, the Civil Revision Petition is allowed and the petitioners are entitled to compensation as follows:-

(i) The compensation fixed by the Referring officer at the rate of Rs.33/- per square feet is ordered to be enhanced to Rs.61/- per square feet with 30% solatium along with interest at the rate of 12% p.a. on solatium.

(ii) Any sum already paid towards the compensation has to be deducted from the total sum if it is already received by the claimants.

(iii) The claimants are entitled to get the additional market value at the rate of 12% p.a. from the date of notification under Section 4(1) of the Land Acquisition Act to the date of passing of the award.

(iv) Further the claimants are entitled to 9% p.a. interest on the excess amount for the 1st year from the date of taking possession and 15% p.a. interest for subsequent years till the date of deposit.



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(v) It is further ordered that, the claimants are entitled for the cost of the proceedings.

(vi) It is further ordered that, except the above mentioned claims, with regard to other aspects, the determination for the Land acquisition officer is confirmed.

(vii) Time for payment of the enhanced claim 2 months.

01.08.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

The I Additional Subordinate Judge, Villupuram.



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P.DHANABAL, J.,

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