



A.S(MD)No.130 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

A.S(MD)No.130 of 2014
and
C.M.P(MD)No.4064 of 2024

1.C.Thangavel(Died)

2.C.Gurunatha Pillai(Died)

3.K.Ramaiya Pillai(Died)

4.S.Murugesan

5.K.Arumugam(Died)

6.A.Pandian(Died)

... Appellants

7.R.Veerabadran

8.Selvam

9.Murugan

10.Poongodi

11.Angaleswari

12.Vasimalai

.. Appellants 7 to 12

[Appellants 7 to 12 are brought on record as LR's of the deceased 3rd appellant vide Court order dated 14.11.2017 made in MP(MD)No.3 of 2014 by MKKSJ&VBSJ]



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WEB C 13.T.Mallika

14.T.Gunasekaran

15.T.Mariselvam

16.T.Rathinam

17.T.Manoharan

18.Karthika

19.Rajesh

20.Saroja

.. Appellants 13 to 20

21.G.Ravi

22.Padmavathi

23.Premalatha

G.Baskaran (Died), S/o.Late Gurunatha Pillai

G.Mohan(Died), S/o.Late Gurunatha Pillai

G.Selvakumar(Died), S/o.Late Gurunatha Pillai

Meenambal (Died), W/o.Late Gurunatha Pillai

Chellayi Ammal(Died), M/o.Late Gurunatha Pillai

24.Malarvizhi

25.Lavanya

26.Naveen

27.Mahalakshmi

28.Nitheesh

29.Ashwin

.. Appellants 21 to 29

30.Seeniammal

31.Palpandian



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WEB COUNCIL 32.Murugeswari

33.Selvi

34.Muthukaruppaiah

.. Appellants 30 to 34

Annalakshmi(Died) W/o.Late Pandian

35.P.Arulmozhivarman

36.Krishnaveni

37.Karthikeyan

.. Appellants 35 to 37

***[Appellants 13 to 20 are brought on record as LR's of the deceased 1st Appellant;
Appellants 21 to 29 are brought on record as LR's of the deceased 2nd Appellant ;
Appellants 30 to 34 are brought on record as LR's of the deceased 5th Appellant ;
Appellants 35 to 37 are brought on record as LR's of the deceased 6th Appellant ;
vide common order dated 15.02.2024 made in CMP(MD)Nos.10348, 10349, 10350,
10351, 10354, 10355, 10356, 10358, 10359, 10361 and 10362 of 2023 in AS(MD)No.
130 of 2014 respectively by GJJ & CKJ]***

Vs.

1.The Sub Collector,
Periyakulam.

.. 1st Respondent/Land Acquisition
Officer

2.C.K.Subburayar

.. 1st Claimant/2nd Respondent

[R2 not necessary party, given up]



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PRAYER: Appeal Suit filed under Section 54 of the Land Acquisition Act, against the judgment and decree dated 10.11.2003, passed in L.A.O.P.No.1 of 1994 on the file of the Subordinate Court, Periyakulam and the same may be modified by awarding the compensation of Rs.10,000/- per cent with 30% solatium on the award amount with interest at the rate of 12% from the date of 4(1) Notification till the date of deposit of the same.

For Appellant : Mr.M.C.Swamy

For Respondent-1 : Mr.D.Sathi Kumar
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **P.VELMURUGAN,J**)

The present appeal has been preferred by the claimants in LAOP No.1 of 1994 on the file of the Sub Court, Periyakulam, challenging the award passed by the learned Sub Judge, Periyakulam, in the reference made under Section 18 of the Land Acquisition Act, 1894, seeking enhancement of compensation payable to them.



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WEB COPY 2. The brief facts of the case are as follows:

2.1. Before the reference Court, the 1st respondent herein issued a Notification on 27.04.1988 under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') for acquisition of the land about 12.75 acres comprised in S.Nos.328/2, 328/3, 328/4, 328/5, 330/1, 330/2 and 330/3. The 4(1) notification was followed by a Notification under Section 6 of the Act. The Land Acquisition Officer, taken into consideration the sale transaction of the adjoining lands for a period of three years prior to the publication of Notification in question, passed an award determining the market value of the land in question at Rs.12,000/- per acre, ie., Rs.120/- per cent. Being dissatisfied with the aforesaid award, the appellants/claimants sought for a reference under Section 18 of the Act to the Civil Court claiming compensation of Rs.10,000/- per cent, for the acquired lands. Consequent to the said prayer, a reference case was registered.

2.2. The appellants/claimants examined 5 witnesses as Ex.CW.1 to Ex.CW.5 and also produced four sale deeds, which were marked as Ex.C1 to Ex.C4. On behalf of the Land Acquisition Officer, one witness was examined as RW.1 and five documents were marked as Ex.R1 to Ex.R5. The learned Sub



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Judge, who heard the reference case, after considering the oral and documentary evidence produced before him, passed an award dated 10.11.2003 fixing the market value of the lands acquired at Rs.20,000/- per acre, ie., Rs.200/- per cent and also awarded 30% solatium on the market value and further a sum of 12% additional market value in terms of Section 23(1)(A) of the Land Acquisition Act and also awarded interest at the rate of 9% per annum for the first year and 12% per annum thereafter.

3. The claimants still aggrieved over the same and filed the present appeal before this Court under Section 54 of the Act on the grounds that the reference Court has not determined the compensation on the basis of the documents marked by the appellants in the LAOP proceedings, namely, Ex.C1 to Ex.C4. Originally, the 1st respondent herein/Land Acquisition Officer considered various sale deeds as data sale deeds and some of the sale deeds which are lesser value had been taken into consideration and he ignored the higher valued sale deeds. Further the sale deeds vide Ex.C1 to Ex.C4 were also ignored by the learned Sub Judge stating that the marked sale deeds are executed prior to the date of 4(1) notification. Further, the extent of lands referred to in the marked sale deeds are



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to the lesser extent and there is no proof to show that the acquired lands are equal standard with the lands referred in the marked sale deeds.

4. Pending the present appeal, the appellants have filed a petition in CMP(MD)No.4064 of 2024 under Order 41 Rule 27(1) of the Civil Procedure Code, to receive additional evidence and they have produced two additional documents. The first one is the data sale deed which is considered by the first respondent and ignored, and another one is a sale deed executed at the relevant period of time. The first document is a sale deed dated 01.11.1986 executed by one Hyder Ali in favour of one Chandrasekaran and another document is a sale deed dated 03.04.1987 executed by one Thangavelu Pillai and others in favour of one Kaleeswari. In the first document, the market value was fixed at Rs.800/- per cent. In the second sale deed, the market value was fixed at Rs.1544/- per cent. Though the appeal is pending from the year 2014, this civil miscellaneous petition is filed only in the year 2024. The Hon'ble Supreme Court in catena of judgments held that any application filed under Order 41 Rule 27 of the Civil Procedure Code to receive the additional documents as evidence, has to be heard and decided along with the main appeal. Therefore, this Court heard both the



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the reference Court for the purpose of assessment of the potential value of the lands acquired by the 1st respondent.

6. The acquired lands are surrounded on the western side with the dwelling houses, EB Staff Quarters, Government Girls Hostel, I.T.I., V.O.C Nagar and Telephone Office and on the Southern side, Seepalakottai Main Road, Krishnaiyer Higher Secondary School, Shopping Complex, Government Library and on the Eastern side, Bus stand, Post Office, Sub Registrar Office, Police Station, Banks and Municipal Office, which are all contributing factors to increase the potential value of the acquired lands. However, the reference Court has not at all made an attempt to assess the potential value of the acquired lands in the light of the above mentioned features surrounding the acquired lands. He would further submit that RW.1, in his evidence, has admitted the existence of the above referred features near the acquired lands and the 1st respondent ought to have fixed the compensation at the rate of Rs.10,000/- per cent. The Collector of Madurai has in his office referred No.D.Dis.103319/88 dated 30.01.1988 sent a report to the Telecom District Manager, Department of Telecommunications, Madurai-2, regarding the fixation of the market value as Rs.6,692.65/- per cent in



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respect of the land in S.No.282/3 at Chinnamanur Village, Uthamapalayam Taluk, Madurai District which piece of land is also situated on the Southern side of the Seepalakottai Road and as such the reference Court ought to have fixed the rate at Rs.10,000/- per cent, treating the acquired lands as house sites instead of treating the acquired lands as an agricultural land. The reference Court failed to consider the proposition of law laid down by the Hon'ble Supreme Court, while passing the award. The reference Court has failed to adopt the guidelines while awarding the compensation. Therefore, the award passed by the reference Court is liable to be set aside and the appeal has to be allowed fixing the market rate as Rs.10,000/- per cent and also with all consequential benefits.

7. Further, he would submit that pending appeal, the appellants have filed a petition in CMP(MD)No.4064 of 2024 under Order 41 Rule 27 to receive the documents referred to as additional evidence for fixing the market value at the appeal stage. The Additional Document No.1 which is a sale deed dated 01.11.1986 and registered in Doc.No.2224/1986 in which the sale price was fixed as Rs.800/- per cent and total extent is 5 cents and the Additional Document No.2 is a sale deed dated 03.04.1987 and registered in Doc.No.608/1987 wherein the



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sale price was fixed as Rs.1544/- per cent. Therefore, the documents referred to by the appellants have to be received as additional evidence and the market value has to be fixed as per the above referred documents. He would further submit that the appellants can invoke Order 41 Rule 27 of CPC, even at any stage, ie., even during the appeal stage, and on such application, the appellate Court can consider those documents while deciding the appeal and in the interest of justice, the documents have to be accepted.

8. The learned Additional Government Pleader would submit that the 1st respondent acquired a total extent of 12 acres 75 cents whereas all the data sale deeds collected by the 1st respondent and the documents relied on by the appellants are with regard to the small extent. It is well settled that the sale deeds pertaining to the portion of the lands which are subject to the acquisition would be the most relevant piece of evidence for assessing the market value of the acquired lands. The sale price in respect of the plots would not be a determinative factor for deciding the market value of a vast stretch of land. The Court has to adopt the comparable sale methods of valuation of land while fixing the market value of the acquired lands.



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9. He further submitted that the lands acquired were classified as agricultural lands and therefore, it has to be taken into consideration. All the data lands and also the documents marked by the appellants are related to the house sites whereas the acquired lands were larger extent. Since there is no related sale deed for the larger extent within the proximate distance, considering the facts and circumstances, the 1st respondent has taken certain documents for fixing the compensation. The data sale deeds which are considered by the 1st respondent are not against the provisions of law and though the lands acquired were classified as agricultural lands, all the documents produced and marked on either side are described as house sites. Therefore, the learned Sub Judge, Land Acquisition Tribunal, Petiyakulam, considered the materials and enhanced from Rs.120/- per cent to Rs.200/- per cent for the acquired lands. Further the appellants have not produced any materials to show that despite having available sale deeds for comparable price value. Therefore, the Court has not considered those documents. It is also not the case of the appellants that they produced the sale deeds which were equivalent to the acquired lands and the 1st respondent failed to consider the said sale deeds and subsequently, the reference Court has also failed to consider



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the same. Therefore, with the available materials, the 1st respondent had considered and fixed the market rate at the rate of Rs.120/- per cent. However, the reference Court, considering the surrounded locality, enhanced the market rate from Rs.120/- to Rs.200/- per cent for the acquired lands and there is no materials to show that the reference Court has failed to consider the important documents and also falsely adopted the method in fixing the market rate and therefore, under these circumstances, there is no merit in the appeal and the same is liable to be dismissed.

10. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

11. Admittedly, the lands of the appellants are totally 12.75 acres, comprised in S.Nos.328/2, 328/3, 328/4, 328/5, 330/1, 330/2 and 330/3, which were acquired as per the notification under Section 4(1) dated 27.04.1988, which was published in the Tamilnadu Government Gazette and subsequently, Section 6 notification also followed and therefore, in this case, there is no procedural irregularities and the only dispute is that the market rate fixed by the 1st



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respondent and subsequently, by the reference Court do not reflect the actual market rate. Aggrieved over the market rate fixed for the acquired lands, the appellants have filed the present appeal.

12. Therefore, in this appeal, the points for consideration to decide the appeal are as follows:

1. Whether the market rate fixed by the reference Court at Rs.200/- per cent for the acquired lands reflect the fair compensation? and,
2. Whether the appellants are entitled to Rs.10,000/- per cent for the acquired lands?

13. As far as point No.1 is concerned, though the learned counsel for the appellants would submit that the 1st respondent had acquired the lands of the appellants for the purpose of construction of Regulated Market Committee Building at Chinnamanur. The said fact is not disputed by the 1st respondent. However, the dispute is that the 1st respondent has not fixed the market value as prevailing during the relevant point of time. While acquiring the land, the first



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respondent has followed the procedures meticulously and the same is also not disputed by the appellants. Admittedly, the 1st respondent had collected 35 sample documents. The same were also referred by the 1st respondent in the award and out of 35 documents, he has taken certain documents and rejected certain documents and also given the reasons for rejection of those sample documents and acceptance of those data documents for fixing the compensation. Though the appellants received the compensation as per the award passed by the 1st respondent, they made an application for enhancement of compensation and the same was referred by the 1st respondent before the Tribunal under Section 18 of the Act. The reference Court took the reference case in LAOP.No.1 of 1994 and thereafter given opportunity for both the parties for filing claim applications and also for filing counter. During the enquiry, on the side of the appellants, totally 5 witnesses were examined as CW1 to CW5 and 4 documents were marked as Ex.C1 to Ex.C4. On the side of the respondents, one witness was examined as RW1 and also 5 documents were marked as Ex.R1 to Ex.R5.

14. The documents marked by the appellants are sale deeds, viz., Ex.C1 is the sale deed executed by one Rajammal in favour of one Amuthavalli dated



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03.09.1983; Ex.C2 is the sale deed executed by one Karuppiah in favour of one Perumal dated 07.10.1986; Ex.C3 is the sale deed executed by one Srimathi Venkatalakshmi in favour of one Sankaran Reddy, the President of Sri Iyyappa Baktha Maha Jana Sabai dated 02.03.1987 and Ex.C4 is the sale deed executed by one Sydoon Beevi in favour of Pappa @ Nagammal dated 19.11.1987. Further, the additional documents produced by the appellants the Doc.No.1 is the sale deed dated 01.11.1986 said to have executed by one Hyder Ali in favour of R.Chandrasekaran and the second document is the sale deed dated 03.04.1987 said to have executed by one Thangavelu Pillai in favour of one Kaleeswari.

15. A perusal of the above said sale deeds shows that those lands were sold as house site/vacant land whereas the acquired lands were classified as agricultural lands to the larger extent of 12.75 acres and no similar corresponding lands were sold during the relevant period just prior to the date of issuance of 4(1) notification. Therefore, the Land Acquisition Officer could not produce any documents. The appellants have also not disputed the fact and also not taken any contra stand that the similar documents were not considered by the 1st respondent. Admittedly, the marked documents in Ex.C1 to Ex.C4 as well as the



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additional documents in the CMP, which have been shown as house sites alone and not a larger extent of agricultural land or any other land, to consider and fix the market rate. Therefore, the Land Acquisition Officer, considering the data documents and found that they are not similar to the classification of the acquired lands and also considering the facts and circumstances of the case and fixed Rs.120/- per cent. Thereafter, the reference Court, after considering the facts and potentiality of the acquired lands, enhanced the rate from Rs.120/- per cent to Rs. 200/- per cent for the acquired lands. All the facts and circumstances of the case are not disputed by either of the parties. The learned counsel for the appellants also has not questioned the procedure adopted for consideration of the documents. However, the learned counsel for the appellants would submit that since the acquired lands are situated in grown up area and the documents marked on either side for consideration are nearby the locality and which are also adjacent lands and if that be the case, had it been not acquired the lands of the appellants and certainly, they would fetch a higher value and this fact has to be considered by the Court.



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16. This Court has carefully analyzed the materials placed before the Court and the admitted facts and also the grievance of the appellants as well as the stand taken by the respondents.

17. Since the subject matter of the appeal is the challenge made against the order passed by the reference Court under Section 18 of the Act, this Court has to see whether the market value fixed by the reference Court is just and reasonable and also it reflects the fair compensation. The reference Court has adopted the Comparable Sales Method of Valuation of lands while fixing the market value of the acquired lands. It is well settled principle that Courts adopt Comparable Sales Method of Valuation of land while fixing the market value of the acquired land than other methods of valuation of land such as Capitalization of Net Income Method or Expert Opinion Method. Comparable Sales Method of valuation is preferred because it furnishes the evidence for determination of the market value of the acquired land at which a willing purchaser would pay for the acquired land if it has been sold in open market at the time of issuance of notification under Section 4 of the Act. However, Comparable Sales Method of valuation of land for fixing the market value of the acquired lands is not always



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conclusive. There are certain factors which are required to be fulfilled and on fulfilment of those factors alone, the compensation can be awarded according to the value of the land reflected in the sales. The factors laid down *inter alia* are : (1) the sale must be a genuine transaction, that (2) the sale deed must have been executed at the time proximate to the date of issue of notification under Section 4 of the Act, that (3) the land covered by the sales must be in the vicinity of the acquired land, that (4) the land covered by the sale must be similar to the acquired land and that (5) the size of plot of the land covered by the sales be comparable to the land acquired. If all these factors are satisfied, then there is no reason as to why the sale value of those lands has not been given for the acquired lands. However, if there is a dissimilarity with regard to the locality, shape, site or nature of land between the land covered by sales and land acquired, it is open to the Court to proportionately reduce the compensation for acquired land than what is reflected in the sales depending upon the disadvantages attached with the acquired land.

18. Admittedly, in this case, the land was classified as a larger extent of 12.75 acres. Originally 4(1) notification was published in the locality on



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29.12.1985. Since the draft declaration could not be published within the period of one year as laid down under the Act, the Government have instructed to send a fresh proposal under Section 4(1) of the Act and the said fresh notification was published on 27.04.1988. Therefore, the data sale deed has to be considered since it was made prior to the original notification dated 29.12.1985. However, the second notification was published only due to technicality, ie., the draft declaration could not be published within one year. Now all the sale deeds referred by the appellants are subsequent to the publication of original 4(1) notification, except one document, namely, Ex.C1. Even the documents produced in the additional evidence also reflect the year 1986, ie., subsequent to the publication of original 4(1) notification. However, the referral Judge has considered one of the data documents dated 12.06.1985 in S.No.328/3 to an extent of 94 cents, which was sold for a sum of Rs.21,625/- and the Land Acquisition Officer has rejected the document saying that it was an interested document. But the learned Sub Judge has observed that the Land Acquisition Officer has not stated on what basis those documents were treated as interested documents. However, the learned Sub Judge, considering the documents referred by the Land Acquisition Officer in item Nos.1,2,6,7,27,28,30,34 and 38, fixed Rs.



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20,000/- per acre for the acquired lands. Now aggrieved over the same, the appellants are before this Court.

19. The conjoint reading of the entire materials reveals the fact that both the appellants and the respondents have not produced the similar nature of lands sold during the relevant period. Therefore, it is settled proposition of law that the sale price in respect of small bit of transaction would not be the determinative factor for deciding the market value of the vast stretch of lands acquired. In this regard, the Hon'ble Supreme Court, in catena of decisions, has laid down that when large tracts of land is acquired and sale instances produced for small extent as exemplar, the best course of the court to arrive at a reasonable and fare valuation is to deduct a reasonable percentage from the valuation shown in the exemplar land on the basis thereof to arrive at a just and fair compensation. In this regard, it is pertinent to refer the judgment of the Hon'ble Supreme Court in the case of ***Rishi Pal Singh and others vs. Meerut Development Authority and another*** reported in **2006 (3) SCC 205** wherein the Hon'ble Supreme Court, while dealing with the large tracts of land is acquired, has held as follows:

“5.....With respect to the first reason, that is, exemplars of



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small plots have been taken into consideration by the Reference Court, in the first instance our attention was invited to some judgments of this Court to urge that there is no absolute bar to exemplars of small plots being considered provided adequate discount is given in this behalf. Thus there is no bar in law to exemplars of small plots being considered. In an appropriate case, especially when other relevant or material evidence is not available, such exemplars can be considered after making adequate discount. This is a case in which appropriate exemplars are not available. The Reference Court has made adequate discount for taking the exemplars of small plots into consideration.....”

20. Further in the case of ***Administrator General of West Bengal v. Collector, Varanasi*** reported in ***1988 (2) SCC 150*** in which the Hon'ble Supreme Court has held that whether large tracts of land are required to be valued, valuation in transactions with regard to the small plots cannot directly be adopted for valuing the compensation of larger tracts of land. The relevant portion of the judgment is extracted hereunder:

"12. It is trite proposition that prices fetched for small plots cannot form safe bases for valuation of large tracts of land as the two are not comparable properties. The principle that evidence of market value of sales of small, developed plots is not a safe guide in valuing large extents of land has to be understood in its proper perspective.



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The principle requires that prices fetched for small developed plots cannot directly be adopted in valuing large extents. However, if it is shown that the large extent to be valued does not admit of and is ripe for use for building purposes; that building lots that could be laid out on the land would be good selling propositions and that valuation on the basis of the method of hypothetical lay out could with justification be adopted, then in valuing such small, laid out sites the valuation indicated by sale of comparable small sites in the area at or about the time of the notification would be relevant. In such a case, necessary deductions for the extent of land required for the formation of roads and other civil amenities; expenses of development of the sites by laying out roads, drains, sewers, water and electricity lines, and the interest on the outlays for the period of deferment of the realisation of the price; the profits on the venture etc. are to be made. In Sahib Singh Kalha v. Amritsar Improvement Trust this Court indicated that deductions for land required for roads and other developmental expenses can, together, come up to as much as 53 per cent. But the prices fetched for small plots cannot directly be applied in the case of large areas, for the reason that the former reflects the "retail" price of land and the latter the "wholesale" price."

21. In this case, the lands to the extent of 12.75 acres were acquired. Now the materials and documents relied on by the learned counsel for the appellants show only the small extent of lands. Admittedly, large tracts of lands are acquired



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in this case, therefore, the valuation in transaction with regard to the small plots cannot directly be adopted as held by the Hon'ble Supreme Court in the decisions cited supra. However, in this case, a reading of the order of the reference Court, in para.8, it is referred that one of the documents was collected with reference to S.No.328/3 in which 94 cents land were sold under a registered sale deed dated 12.06.1985 for a sum of Rs.21,625/-. Though the learned Sub Judge has observed that the Land Acquisition Officer has stated that the said document is an interested sale deed, however, the Land Acquisition Officer has not stated as to how it is an interested sale deed. But the learned Sub Judge also not fixed the market rate on the basis of the said document and he has also not given any reason for not taking into account the said document for fixing the market rate. As already stated, Section 4(1) notification was published on 29.12.1985 and due to the non-compliance of Section 6 of the Act within a period of one year, a fresh notification was published subsequently on 27.04.1988. Though there is no direct evidence for issuance of this interested sale deed, however, the said document is prior to the original publication of 4(1) Notification dated 29.12.1985. However, the said sale deed covered for an extent of 94 cents alone whereas in this case the acquired lands are totally 12.75 acres.



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22. A perusal of the entire materials show that the claimants have filed the counter statement before the reference Court in which they have clearly stated that the acquired lands lie within the jurisdiction of the Chinnamanur Municipality. The acquired lands are surrounded on the Western side with the dwelling houses, EB Staff Quarters, Government Girls Hostel, I.T.I., V.O.C Nagar and Telephone Office and on the southern side, Seepalakottai Main Road, Krishnaiyer Higher Secondary School, Shopping Complex, Government Library and on the Eastern side, Bus stand, Post Office, Sub Registrar Office, Police Station, Banks and the Municipal Office, which are all contributing factors to increase the potential value of the acquired lands. This fact has not been denied by the respondents. When the Land Acquisition Officer is not able to collect the data sale deeds for the similar nature of lands and similar extents, the above mentioned factors are all contributing factors to increasing the potential value of the acquired lands. The reference Court, while fixing the market value has not made any attempt to assess the potential value of the acquired lands in the light of the above mentioned features surrounding the acquired land.



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23. In this regard, it is pertinent to refer the case in ***Ranvir Singh and Another v. Union of India*** reported in **2005 (12) SCC 59**, wherein the Hon'ble Supreme Court has held that the award determining the amount of compensation is not conclusive and the same would merely be a piece of evidence. There cannot be any fixed criteria for determining the increase in the value of land at a fixed rate. The relevant portion is extracted hereunder:

"31. Furthermore, it is well settled that the sale deeds pertaining to the portion of lands which are subject to acquisition would be the most relevant piece of evidence for assessing the market value of the acquired lands."

"36. Furthermore, a judgment or award determining the amount of compensation is not conclusive. The same would merely be a piece of evidence. There cannot be any fixed criteria for determining the increase in the value of land at a fixed rate."

24. Therefore, from the aforesaid discussions, case Laws and precedents, this Court finds that the sale price in respect of small bit of transaction would not be a determinative factor for deciding the market value of the vast stretch of land. Though the said fact cannot be taken into consideration, the market rate can be fixed only considering the rate during the relevant time of issuance of 4(1)



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notification. At the same time, in view of the decision of the Hon'ble Supreme Court in 2005 (12) SC 59, this Court finds that the market rate fixed by the learned Sub Judge does not reflect the fair compensation. It is also well known that the development cost incurred by statutory agencies is much higher than the cost incurred by private developers, having regard to higher overheads and expenditure. If the acquired land is already developed and could be used as a commercial/residential plot, what should be deducted would be in the lower side whereas if development is to be made, like filling up of the land, providing of roads, sewage and other civic amenities, etc., the range of the deduction could be higher. Since the acquired lands were agricultural lands, it would require extensive development to be utilised as a residential site. In this regard, it is relevant to rely on the judgment of the Hon'ble Supreme Court in the case of Kasturi and others v. State of Haryana, reported in 2003 (1) SCC 354. The relevant portion is extracted as under:

"7. It is well settled that in respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area



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required for roads and other civic amenities to develop the land so as to make the plots for residential or commercial purposes. A land may be plain or uneven, the soil of the land may be soft or hard bearing on the foundation for the purpose of making construction; maybe the land is situated in the midst of a developed area all around but that land may have a hillock or may be low-lying or may be having deep ditches. So the amount of expenses that may be incurred in developing the area also varies. A claimant who claims that his land is fully developed and nothing more is required to be done for developmental purposes, must show on the basis of evidence that it is such a land and it is so located. In the absence of such evidence, merely saying that the area adjoining his land is a developed area, is not enough particularly when the extent of the acquired land is large and even if a small portion of the land is abutting the main road in the developed area, does not give the land the character of a developed area. In 84 acres of land acquired even if one portion on one side abuts the main road, the remaining large area where planned development is required, needs laying of internal roads, drainage, sewer, water, electricity lines, providing civic amenities etc. However, in cases of some land where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be less on that account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases



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less than 1/3rd. It must be remembered that there is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not ipso facto make every land situated in the area also developed to be valued as a building site or plot, particularly when vast tracts are acquired, as in this case, for development purpose."

25. Further in the case of ***Saji Kuriakose and Another v. Indian Oil Corporation Ltd., and others*** reported in **2001(7) SCC 650**, it is held that:

"3. It is no doubt true that courts adopt comparable sales method of valuation of land while fixing the market value of the acquired land. While fixing the market value of the acquired land, comparable sales method of valuation is preferred than other methods of valuation of land such as capitalisation of net income method or expert opinion method. Comparable sales method of valuation is preferred because it furnishes the evidence for determination of the market value of the acquired land at which a willing purchaser would pay for the acquired land if it had been sold in the open market at the time of issue of notification under [Section 4](#) of the Act. However, comparable sales method of valuation of land for fixing the market value of the acquired land is not always conclusive. There are certain factors which are required to be fulfilled and on fulfilment of those factors the compensation can be awarded, according to the value of the land reflected in the sales. The factors laid down inter alia are: (1) the



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sale must be a genuine transaction, (2) that the sale deed must have been executed at the time proximate to the date of issue of notification under [Section 4](#) of the Act, (3) that the land covered by the sale must be in the vicinity of the acquired land, (4) that the land covered by the sales must be similar to the acquired land, and (5) that the size of plot of the land covered by the sales be comparable to the land acquired. If all these factors are satisfied, then there is no reason why the sale value of the land covered by the sales be not given for the acquired land. However, if there is a dissimilarity in regard to locality, shape, site or nature of land between land covered by sales and land acquired, it is open to the court to proportionately reduce the compensation for acquired land than what is reflected in the sales depending upon the disadvantages attached with the acquired land."

26. Considering the above said facts and circumstances, this Court finds that if the market value is Rs.25,000/- per acre, it would be a just and fair compensation. Therefore, this Court fixes Rs.25,000/- per acre, ie., Rs.250/- per cent.

27. With the above modification, this appeal is partly allowed and the market rate for the acquired lands is enhanced from Rs.200/- to Rs.250/- per cent and Rs.20,000/- to Rs.25,000/- per acre. Therefore, the 1st respondent is liable to



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pay such enhanced compensation proportionately with all consequential benefits.

No Costs.

28. As far as C.M.P(MD)No.4064 of 2024 is concerned, since the additional documents are reflected the transaction of a small extent of lands, that too, after the issuance of initial 4(1) notification, it is liable to be dismissed. Therefore, considering the law laid down by the Hon'ble Supreme Court as discussed supra, this Civil Miscellaneous Petition is dismissed.

[P.V.,J.] [M.S.Q.,J.]
30.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
PJL

To

1. The Subordinate Judge,
Periyakulam.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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P.VELMURUGAN, J.
and
MOHAMMED SHAFFIQ,J.

PJL

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