IN THE HIGH COURT OF JUDICATURE AT MADARS

DATED 28..03..2025

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Appeal Suit No.377 of 2022
and C.M.P.No.13387 of 2022

…..

1.The Special Tahsildar (Land Acquisition),
Nallathangal Odai Reservoir Scheme,
Dharapuram.

2.The Revenue Divisional Officer,
Dharapuram.

3.The Executive Engineer,
Water Resources Organization,
Amaravathi Water and Drainage Division,
Public Works Department, Karur.

….. Appellants

-Versus-

Marimuthu (Died)

Palanisamy (Died)

Chandirasekaran (Died)

1. Muthusamy
2. Eswaramoorthy
3. Palanisamy
4. Tamilarasi
5. Malarvizhi
6. Kumarasamy
7. Kannagi
8. Selvi W/o Subramaniam
9. Kiresh

10.K.N.Palanisamy
Nachimuthugounder (Died)
Selvakumar (Died)
11.Mookai
12.Selvi W/o Kumar
13.Jothimani
14.Malarkodi
15.Kamalam
16.Gowthaman
17.Dhandapani
18.Kandhasamy
19.Subramanian
20.Mallikadevi ….. Respondents

Appeal filed under Section 54 of the Land Acquisition Act, 1894, praying to set aside the judgement and decree dated 26.08.2021 made in L.A.O.P.No.5 of 2012 on the file of the learned Subordinate Judge, Dharapuram, Tiruppur District.

For Appellant(s)	:	*Mrs.R.Anitha, Special Government Pleader*
For Respondent(s)	:	*Mr.N.Ponraj for R2 to R5, R10, 11 and 15 to 20*

JUDGEMENT

The Special Tahsildar (Land Acquisition), Nallathangal Odai Reservoir Scheme, Dharapuram; the Revenue Divisional Officer, Dharapuram; and the

Executive Engineer, Water Resources Organisation, Amaravathi Water and Drainage Division, Public Works Department, Karur, have preferred this appeal suit. The respondents are claimants.

2. This appeal suit is against the order passed by the learned Subordinate Judge (Reference Court) at Dharapuram, enhancing the compensation from Rs.29,000/- per Are (Rs.62,160/- per Hectare) for the agricultural land and Rs.9,986/- per Are (Rs.24,443/- per Hectare) for the manavari dry land as fixed by the Referring Officer to Rs.1,00,000/- per Are (Rs.2,47,000/- per Hectare) for the agricultural land and Rs.70,000/- per Are (Rs.1,72,900/- per Hectare) for the manavari dry land, respectively.

3. Brief facts that lead to the filing of the appeal suit are as follows: -

(a) A total extent of 7.85.0 hectares of land in S.Nos.303/2, 303/3, 303/4, 674/1B, 678/1, 678/4, 679/1B, 879/2B, 704/2, 705/1, 705/3, 707/2, 709/3B, 1019/2, 1020/1, 1020/3, 1020/4, 1023/1, 1024/1, 1024/2, 1025/1, 1025/2 of Ponnivadi village was proposed to be acquired at the request of the Tamil Nadu Public Works Department for the purpose of constructing a reservoir dam across Nallathangal Odai in Ponnivadi village. Accordingly, a notification under Section 4(1) of the Land Acquisition Act, 1884, was issued vide Official Gazette No.344 dated 24.07.2001, and a publication in a local daily was also issued on 25.07.2001. After due enquiry an award came to be passed under Section 11 of the Land

Acquisition Act, 1884, vide Award No. 5 of 2003 dated 06.04.2003.

(b) The details of the land acquired from the respective claimants, compensation awarded by the LAO and the reference court are as follows:

Sl.No.	Claimant's Name	S.No.	Extent in	
			Hectare	Acre
1	Marimuthu (Died) Originally 1st claimant in the reference	303/2	0.24.0	
		303/3	0.15.0	
		303/4	0.08.0	
		Total	0.47.0	1.16
2	Palanisamy (Died))S/o.Mariyappagounder who was originally 2nd claimant in the reference represented by LRs Subramanian (C24) and Mallikadevi (C25)	674/1	0.62.0	1.53
3	Chandirasekaran (Died) who was originally 3rd claimant in the reference represented by LRs Kamalam (C20) and Gowthaman (C21)	678/1	0.05.0	
		679/1B	1.18.5	
		305/3	0.01.0	
		Total	1.24.5	3.11
4	1.Easwaramoorthy (C5) 2.Palanisamy (C6) S/o Periyasamygounder 3.Tamilarasi (C7)	678/4	0.11.5	

	4.Malarvizhi (C8)			
		707/2	2.03.0	
		Total	2.14.5	5.30
5	Kumarasamy (9th claimant)	1025/2	0.06.0	
		679/2	0.25.0	
		Total	0.31.0	0.77
6	K.N.Palanisamy (C13)	709/3B	1.19.0	2.94
7	Nachimuthugounder (Died) Selvakumar (Died) who were originally respondents 14 & 15 in the reference represented by LRsDhandapani (C22) and Kandhasamy (C23)	1019/2 1020/3	0.18.0 0.14.0	
		Total	0.32.0	0.80

(c) The 1st respondent/Land Acquisition Officer (LAO) took into consideration a total of 57 sale transactions that had taken place three years preceding the issuance of the 4(1) Notification and, based on a sale transaction that took place on 26.05.2000, whereby an extent of 2.58 Ares of land comprised in S.Nos.397/3 and 397/5 of Ponnivadi village was sold for Rs.72,380/- per Are, the 1st respondent had determined the market value for the acquired land at Rs.29,000/- per Are or in other words, Rs.62,160/- per Hectare.

(d) Being aggrieved by the market value determined by the 1st respondent/LAO to arrive at the compensation for the acquired lands, the appellants sought reference to the Reference Court (Subordinate Judge) at Dharapuram to establish their claim for enhanced compensation. Accordingly, the LAO made references under Section 18 of the Land Acquisition Act, 1894.

4. The claim of the landowners before the reference court in brief is as follows:

(a) The acquired lands were fertile and undervalued. After acquiring a greater area of land, the remaining smaller area of land has become unusable. During the relevant period, 1.00 Acre of land was sold for Rs.1,50,000/- through a sale deed dated 20.04.1997; and in another transaction 1 acre of land was sold for a total sum of Rs.50,000/- by one Naatuthurai through a sale deed dated 05.01.1996 vide Doc.No.153 of 1996. Further, on 06.06.1997, an extent of 1 acre of land was sold for Rs.1,00,000/- through a registered sale deed vide Doc.No.4330 of 1997 to one Kalaimagal by one Rajendran; on 20.04.1998; 1 acre of agricultural land was sold to one Thirumalaisamy for a sum of Rs.1,00,600/- through a sale deed dated 20.04.1998; 70 cents of land were sold to Palanichamy Gounder through a sale deed dated 20.04.1998 vide Doc.No.1191 of 1998; an extent of 12 cents were sold for a total sum of Rs.18,000/-; on 16.10.1998, an extent of 50 cents were sold to one Kumarasamy for a total sum of Rs.50,000/-; and another 50 cents of land was sold on 13.03.2000 to one Sivasamy through a sale deed dated 16.10.1998; and an extent of 1 Acre, 23 ½ cents were sold for a total sum of Rs.1,04,200/- vide document No.852 of 2000.

(b) In respect of Acre 4.39 – 1.77.5 hectares of land in Survey No.934, which had been acquired at the same time for the very same purpose of construction of a reservoir dam, on reference at the instance of the landowners, the reference court was pleased to redetermine the market value for the acquired lands at Rs.70,000/- per acre. Therefore, the claimants pray for enhancement of compensation by fixing the market value of the acquired land at Rs.3,00,000/- per acre.

5. The 1st respondent/LAO disputed the claim of the landowners for enhanced compensation.

6. On reference, the reference court took it on file in L.A.O.P.No.5 of 2012.

7. During the enquiry, on the side of the claimants, 25th claimant-Subramanian, examined himself as C.W.1 on behalf of the claimants 2, 3, 20, 21, and 24 and for himself; the 6th claimant- Palanisamy, examined himself as C.W.2 on behalf of claimants 5, 7 & 8 and for himself; the 9th claimant-Kumarasamy examined himself as C.W.3, 13th claimant, K.N. Palanisamy, examined himself as C.W.4; and the 21st claimant- Gowthaman, examined himself as C.W.5 on behalf of claimants 14, 15 and himself and Exs.C.1 to C.11 were marked. On the side of

the Referring Officer, Mr.B.Balakrishnamoorthy, the then Special Tahsildar (Land Acquisition) who passed the Award vide Award No.5 of 2023 dated 06.04.2003 was examined as R.W.1 and Exs.R.1 to R4 were marked.

8. The reference court (Subordinate Judge), upon considering the rival claims and oral and documentary evidence adduced on the side of the claimants and referring officer, by judgement under appeal concluded that the market value fixed by the 1st respondent in respect of both agricultural land(s) and manavari dry land(s) acquired from the claimants were not just and fair and held that the appellants/claimants are entitled to get compensation at the enhanced market rate of Rs.1,00,000/- per Hectare for the agricultural land and Rs.70,000/- per Hectare for the manavari land as against the market value fixed by the 1st respondent/LAO at Rs.62,160/- per Hectare and Rs.24,443/- per Hectare for the agricultural lands and manavari dry lands respectively together with all other statutory benefits for the enhanced compensation. The learned subordinate judge recorded his findings for the enhancement of compensation, adopting the method of highest of sale exemplars, based on Ex.C.2 and Ex.C.3 sale transactions, which show that an acre of land was sold at Rs.1,00,000/- in the years 1997 and 1998. These documents were relied upon by the learned Judge to determine the market value for the agricultural land at Rs.1,00,000/- per acre mainly on the ground that the referring officer did not give any explanation as to the rejection of the said sale transaction.

Insofar as manavari dry lands are concerned the learned Judge based his finding mainly on Ex.C.11, which is an order/award dated 14.11.2006 passed by the reference court in the other reference in L.A.O.P. No.1 of 2009, however, in respect of the land acquired from the other landowners for the very same village, Ponnivadi, and for the very same purpose. As already discussed above, in the case on hand, notification under Section 4(1) of the LA Act, 1894 was issued on 24.07.2001. In the said award, as seen from Ex.C.11 award of the reference court, notification under Section 4(1) of the LA Act, 1894 was issued on 05.10.2000. Ex.C.11 was passed based on Ex.C.10. Ex.C.10 relates to Award No.9 of 2000-2001 dated 20.11.2000.

9. The reference court based on the market value determined by it, calculated the compensation payable to each of the claimants as per law. They are tabulated hereunder: -

Sl. No.	**Claimant(s)**	**Nature of Land**	**Extent in Acres**	**Total market value of the land (in Rupees)**
1	2nd claimant rep. by LRs 24th Claimant 25th Claimant	Agricultural Land	1.53	1,53,000
2	3rd claimant rep. by LRs 20th Claimant 21st Claimant	Manavari Dry Land	3.11	2,17,700
		Rounded it up to the nearest thousand		**2,18,000**

3	5th Claimant 6th Claimant 7th Claimant 8th Claimant	Manavari Dry Land	5.30	3,71,000
4	9th claimant	Manavari Dry Land	0.77	53,900
		Rounded it up to the nearest thousand		**54,000**
5	13th claimant	Manavari Dry Land	2.94	53,900
		Rounded it up to the nearest thousand		**54,000**
6	Claimants 14 & 15 (Died) rep. by LRs 22nd Claimant 23rd Claimant	Manavari Dry Land	0.80	56,000

Besides the above, the reference court also held that the claimants are entitled to get 30% solatium on the market value calculated under Section 23 (2) of the LA Act,1894, 12% enhanced amount on the said amount as per Section 23(1-A) of the LA Act, 1894 from 24.07.2001 to 06.09.2003; and interest at 9% p.a. on the said amount for one year from the date of possession under Section 28 of the LA

Act,1894; and also interest at 15% p.a. after the expiry of one year as stated hereinabove till the date of deposit of the entire compensation.

10. Feeling aggrieved over the order passed by the reference court enhancing the compensation is on the higher side, the LAO and two others come up with the present appeal suit. However, there were no cross-objection(s) from any of the claimants.

11. Heard both sides.

12. The learned Special Government Pleader appearing for the appellants would strenuously submit that the reference court has erred in enhancing the market value from Rs.25,166/- per acre to Rs.1,00,000/- per acre for agricultural land based on Exs.C.2 & C3, when the genuineness and bona fides of the sale had not been proved by way of oral evidence, and further, there was also no evidence available to show that the land sold under Ex.C.2 & Ex.C.3 were comparable to the acquired land. Sales under Ex.C.2 & Ex.C.3 had been brought into existence only to inflate the market value of the agricultural land in question, and therefore, the reference court ought not to have considered the sale under Ex.C.2, Ex.C.3 and Ex.C.9 as a comparable sale. The order of the reference court enhancing compensation is liable to be modified.

13. The learned Special Government Pleader would moreover submit that

insofar as manavari dry land is concerned, the reference court erred in relying upon earlier judgement relating to another acquisition proceeding for some other purpose with different notification issued under Section 4(1) of the Land Acquisition Act, 1894.

14. The learned counsel for the respondents would, on the other hand, contend that the reference court has taken into consideration the sale exemplars relied upon by the LAO and adopted the principle of highest of bona fide sale exemplars (Ex.C.2 & Ex.C.3) which reflected the highest sale price and rightly determined the market value of the acquired agricultural property at Rs.1,00,000/- per acre. The reference court has also drawn support from Ex.C.11 to base its conclusion. Ex.C.11 is the Award passed by the reference court arising out of another reference of course relating to an acquisition for a different purpose. Similarly, the reference court relied upon Ex.C.11 Award to determine the market value of manavari dry land at Rs.70,00/- per acre. There is no specific exception under the Land Acquisition Act, as provided under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which states while determining the market value and the average sale price under sub-section (1) of section 26 of the 2013 Act, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration. Therefore, the order of the reference is

perfectly right and it does not require any interference at the hands of this court.

15. This court has considered the rival submissions and perused the available materials carefully.

16. Upon considering the rival submissions, the points that arise are as follows:

(1) Whether the reference court was right in enhancing the market value of the agricultural land covered under the award in question?

(2) Whether the reference court was right in enhancing the market value of the manavari dry land covered under the award in question?

(3) To what other reliefs the parties are entitled to?

Point No.1:-

17. No doubt, the individual landowners who have been unavoidably deprived of their property rights in land must be fairly compensated for the loss keeping in view the sacrifice they have to make for the larger interests of the community.

18. In the case of ***Mahabir Prasad Santuka v. Collector*** [(1987) 1 SCC 587], the Hon'ble Supreme Court has held that market value means, the price which a purchaser is willing to pay for the similar land to a willing seller and further held the concessional rate offered to the industrialist does not indicate the market value and compensation must accurately reflect the market value and the court must ensure that the landowners are justly compensated in alignment with prevailing market conditions. The relevant paragraph of the judgement of the Hon'ble Supreme Court reads as follows: -

> "**4.** ………………… It is well settled that the owner of the acquired land is entitled to compensation on the basis of its market value. Section 23 of the Act lays down principles for determining compensation according to which the owner is entitled to receive market value of the land. Market value means what a willing purchaser would pay to a willing seller for the property having regard to the advantages available to the land and the development activities which may be going on in the vicinity and the potentiality of the land. On the evidence on record it is apparent that the land in dispute is adjacent to the industrial area of Charbatiya where a large number of factories including Orissa Textile Mills, Kalinga Tubes Ltd., and a number of other factories are situated. The evidence on record further indicates that even though the land was being used for agriculture purposes but it was fit for non-agricultural purposes and it had potentiality for future use as factory or building site.

The learned Subordinate Judge on perusal of the oral and documentary evidence on record determined the market value of the land at the rate of Rs 15,000 per acre. The High Court held that since the State Government had been offering land situate in the adjacent Industrial Area to the industrialists at the rate of Rs 7500 per acre, the appellants were entitled to compensation at that rate. In our opinion the High Court committed error in taking that approach, as it had itself observed that the State Government had offered land to the industrialists to enable them to set up industries and the price of the land was offered to them at a concessional value with a view to induce them to set up factory. After making that observation High Court was not justified in determining the market value of the land at Rs 7500 per acre, as the offer of land to industrial entrepreneurs at concessional rate could not reflect the market value of the land."

19. The reference court, adopted the highest sale exemplar method based on Ex.C.2 and Ex.C.3, which reflected that an acre of land was sold at Rs.1,00,000/- per acre and held that the market value of the acquired land would have been Rs.1,00,000/- per acre. It has also drawn support from Ex.C.11, which is an award passed in respect of the lands acquired from the same village – Ponnivadi and covered under a different acquisition proceeding. Ex.C.1 to Ex.C.11 were also taken into consideration by the LAO. When R.W.1 was confronted with Ex.C.10, an order of the learned Subordinate Judge, Dharapuram, dated 08.04.2004, made in C.M.A.No.5 of 2001 arising out of a different reference relating to different

acquisition proceedings, and Ex.C.11, an order/award passed by the reference in another reference in L.A.O.P.No.1 of 2009 which relates to a different acquisition, Though R.W.1 initially disavowed his knowledge about Ex.C.1 & Ex.C.2, subsequently, he candidly admitted that Exs.C.1 to C.11 were considered by him for the purpose of determination of the market value of the property. There was no plausible reason assigned by the LAO for the rejection of Ex.C.2, Ex.C.3 and Ex.C.11 from taking into consideration to determne the market value of the acquired property. This was also not the specific case of the LAO that the lands covered under those documents were not comparable to the acquired lands.

20.1 Explanation 3 to Section 26(1) of the RFCTLARR provides a specific exception to the general rule of determining compensation, which says that while determining the market value under sub-section (1) of Section 26 and the average sale price referred to in *Explanation* 1 or *Explanation* 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

21.2 However, there is no such exception under the Land Acquisition Act of 1894 to consider any price paid as compensation for land acquired in the area or in the District under the Land Acquisition Act of 1894 at a previous time, unlike the

RFCTLRR Act of 2013.

21.3 In the case of **Special Land Acquisition Officer and Ors. v. N. Savitha [Civil Appeal Nos.2052-2053***of 2022 dated 22.03.2022], the Hon'ble Supreme Court has held that*** consent award cannot be the basis to determine compensation in other acquisition, especially, when there are other evidences on record. While overturning the judgement of Karnataka High Court, the Hon'ble Supreme Court has held that the High Court ought not to have relied upon the same while determining the market price of the land acquired in 2008 considering the market price determined for the lands acquired in the year 2011. The relevant portions of the judgement read as follows: -

> "4. At the outset, it is required to be noted and it is not in dispute that while enhancing the amount of compensation to Rs.40 lakhs per acre, the High Court has heavily relied upon Ex.P.17 – by which in respect of the lands acquired in the year 2011 the compensation was awarded @ Rs.60 lakhs per acre. However, it is required to be noted that the award – Ex.P.17 was a consent award and was in respect of the property acquired in the year 2011 and which was acquired for a different purpose, namely, for formation of double line railway broad gauge between Bengaluru and Mysore City. But in the present case, Section 4 notification has been issued in the year 2008, i.e., three years before the land acquired in the case of Ex.P.17. Therefore, <u>the award – Ex.P.17, which has been relied upon by the High Court is for the acquisition subsequent to</u>

the land acquired in the present case, i.e., after a period of three years and therefore the High Court ought not to have relied upon the same while determining the market price of the land acquired in 2008 considering the market price determined for the lands acquired in the year 2011 and on the basis of some "guesswork".

5. Even otherwise, it is required to be noted that Ex.P.17 is a consent award. Therefore, the consent award ought not to have been relied upon and/or considered for the purpose of determining the compensation in case of another acquisition. In case of a consent award, one is required to consider the circumstances under which the consent award was passed and the parties agreed to accept the compensation at a particular rate." **Emphasis supplied**

21.4 In the case of ***Printers House (P) Ltd. v. Saiyadan*** **[(1994) 2 SCC 133]**, the Hon'ble Supreme Court has held that the best evidence for determining the market value of the acquired land could be an authentic transaction of sale relating to the very acquired land or a portion thereof or any other land which could be favourably compared with the acquired land. The same would be the position when the available evidence relates to land covered by a previous award.

21.5 In case of ***Manoj Kumar v. State of Haryana*** **[(2018) 13 SCC 96],** the Hon'ble Supreme Court has held that while relying upon previous award/judgement awarding compensation by the court in respect of land in close vicinity of the acquired, the court has to apply the judicial mind and is not supposed to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. It has further held that previous awards/judgements are piece of evidence on par with the comparative sale transactions and similarity of the land covered by previous judgement/award is required to be proved like any other comparative sale exemplars.

21.6 In the case of **N.Savitha [cited supra],** the Hon'ble Supreme Court rejected the award which had been relied upon by the Karnataka High Court on the ground that it was for the acquisition after the land acquired in the case under appeal before the Hon'ble Supreme Court and that the award was a consent award.

22. In the instant case, the relevancy of Ex.C.11 is not disputed by R.W.1 in his cross-examination. On a careful perusal of the entire evidence available on record, more particularly, the oral evidence of R.W.1, as rightly pointed out by the reference court, there is nothing to suggest that the acquired lands are not comparable to the land covered under the highest of bona fide sale exemplars. R.W.1 himself, as already discussed supra, admitted tht he (R.W.1) had taken into consideration Ex.C.1 to C.11 and discarded them. The reference court in its judgement after considering the evidence of R.W.1 concluded that when the referring officer proceeded to rely upon the sale deed dated 26.05.2000, there was no specific reason was assigned by him (R.W.1) to reject Ex.C.3 sale deed which

relates to 20.04.1998. When the reference court, on considering all the above, based its finding following the principle of highest of bona fide sale exemplar and determined the market value at Rs.1,00,000/- and it has just drawn a support from Ex.C.11 to base its conclusion, this court does not find any illegality in the same and the order of the reference court enhancing the market value of the agricultural land from Rs.25,166/- per acre to Rs.1,00,000/- per acre does not require any interference at the hands of this court.

The Point No.1 is answered accordingly against the appellants and in favour of the respondents.

Point No.2 :-

23. Coming to the compensation for manavari dry land is concerned, it is seen from the impugned order that the reference court based its finding for the enhancement of the market value solely on the basis of Ex.C.11. Here also, there is no evidence to interfere with the findings of the reference court. As already discussed above, there is nothing wrong on the part of the reference court in relying upon Ex.C.11. Thus, the market value determined by the reference court in respect of manavari dry land also stands confirmed.

Point No.2 is answered accordingly against the appellants and in favour of the respondents.

Point No.3:

24. In the light of the answers given under Point Nos.1 and 2, the appeal suit must fail. The order and decree of the reference court are perfectly right and they do not require any interference at the hands of this court. The appellants are not entitled to any relief in this appeal suit. The respondents are also not entitled to any relief in this appeal suit.

Point No.3 is answered accordingly.

In the result, the appeal suit is dismissed. The order and decree of the reference court stand confirmed. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral citation : yes / no
kmk

28..03..2025

To

1.The Subordinate Judge, Dharapuram, Tiruppur District.

N. SATHISH KUMAR.J.,
kmk

A.S.No.377 of 2022

28..03..2025