



AS No.325 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

AS No. 325 of 2022

& CMP No.11916 of 2022

1.The Union of India,
Rep by the Secretary to Government (Revenue),
Puducherry.

2.The Deputy Collector(Revenue)-cum-
Land Acquisition Officer,
Karaikal.

3.The Director,
Tourism Department,
Puducherry.

Appellant(s)

Vs

N.Rethinambal
No.105, Kamalambal Nagar, Thirunallar,
Karaikal -609 607.

Respondent(s)

Prayer: This Appeal Suit has been filed to set aside the order dated 12.12.2019, passed by the learned District Judge, Puducherry at Karaikal in LAOP No.39 of 2017.



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For Appellant(s):

Mr.M.Nirmal Kumar, Government Advocate,
(Pondicherry)

For Respondent(s):

Mr.T. Saikrishnan

ORDER

This Appeal Suit has been filed, praying to set aside the order dated 12.12.2019, passed by the learned District Judge, Puducherry at Karaikal in LAOP No.39 of 2017.

2.Challenge in this Appeal is made to the enhancement of compensation order passed by the Reference Court under Section 18 of the Land Acquisition Act, 1994 (hereinafter referred to as "the Act") regarding the acquisition in respect of the land to a total extent of 57H-53A-87Ca situated at Keezhavoor, Thirunallar and Pettai Revenue Villages of Karaikal District, Puducherry, which was acquired for the development of Temple Town, particularly, for providing Ring Road and Facility Node. A notification under Section 4(1) of the Act was issued on 06.08.2007. Declaration under Section 6 of the Act was issued by the Revenue Department vide G.O.Ms.No.8 dated 03.03.2009 and published in the



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Pondicherry State Official Gazette on 22.07.2009. The Land Acquisition

Officer passed an Award fixing the compensation at Rs.50,000/- per Are.

Aggrieved by the fixation, the claimants sought for reference under Section 18 of the Act. Upon reference made, the claimants filed a claim statement seeking enhancement of compensation @ Rs.1,50,000/- per Are. The Land Acquisition Tribunal, based on the reference and taking note of the various transactions of the sale particularly, the sale made in the same survey number prior to the acquisition, has enhanced the compensation from Rs.50,000/- per Are to Rs.1,50,000/-. Aggrieved over the same, the present Appeal came to be filed on behalf of the Revenue Department.

3.The learned Government Advocate appearing for the appellants would mainly contend that the enhancement has been made relying upon the sale deeds dated 12.03.2007, 16.03.2007, 30.03.2007, 07.06.2007 and 12.02.2007, which were marked as Exs.C1, C3 to C7 by the Reference Court. According to the learned Government Advocate appearing for the appellants, these documents have already been considered by the Land Acquisition Officer while fixing the compensation. Those documents have been rejected since the transactions have been made very abnormal by



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knowing the land acquisition proceedings to hike the value of compensation for the land under acquisition. Therefore, it is the contention that same documents have been relied upon by the Reference Court which cannot be a proper basis for enhancing the compensation. Therefore, he would urge that the enhancement order passed by the Reference Court has to be interfered with.

4. Whereas, the learned counsel for the respondent would submit that the Reference Court has rightly considered the sale deeds, which were in existence prior to the notification and the similar order, enhancing the compensation has been challenged before the Division Bench of this Court in A.S.No.546 of 2023, arising out of the same reference, whereas the Division Bench of this Court, while confirming the order of the Tribunal, dismissed the Appeal. Therefore, he prays to dismiss the Appeal as devoid of merits.

5. In the light of the above submissions, what arises for consideration before this Court is whether enhancement made by the Reference Court is abnormal and not based on the evidence?



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6.I have perused the material available on record. It is well settled that for fixing compensation relying on the sale deeds which were prior to the notification of the subject land are pertaining to neighboring lands or other lands which are very closest facility of the acquired land and could be taken note of by the Reference Court. In fact, before the Reference Court, the claimant examined herself as C.W.1 and marked Exs.C1 to C7. The claimant also examined her vendor through Advocate Commissioner as CW2 and marked her Income Tax Returns as Ex.C8. On the side of the 2nd respondent, one K.P.Sreejith, the then Tahsildar was examined as RW1 and Exs.R1 to R4 were marked. The Reference Court, taking note of the fact that Exs.C1, C3 & C5 dated 12.03.2007, 12.03.2007 & 30.03.2007 found that the lands were sold for a sum of Rs.3,62,000/- for 1 Acre 85 cents and the Reference Court also found that the sales were made much prior to the date of 4(1) notification and also clearly the Reference Court rendered findings that though the guideline value is not the market value as the guideline value is only made for revenue whereas the market value is based on the bargain between the parties.



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7.Be that as it may, when there are prior documents already available, which would clearly indicate the nature of the sale consideration paid in respect of the same properties, merely because there were some sales that took place prior to the notification, it cannot be said that those sales are made only for the purpose of getting higher compensation at a later point of time. Such presumption, in view of this Court, is without any basis. Therefore, the contention of the learned counsel for the appellant that these sale deeds relied upon by the Reference Court have already been rejected by the Land Acquisition Officer and therefore, the same cannot be relied upon as it has no nexus to stand. Inasmuch as the documents, viz., sale deeds Ex.C1, C3 to C7 relied upon by the Reference Court would clearly indicate that the lands which were sold are abutting the lands under acquisition and they are situated on the either side of the subject lands, i.e. within a few meters from the Temple town and they possess the same development. Therefore, the Land Acquisition Tribunal and the Reference Court relied upon the documents cannot be faulted with as same challenge has already been made before this Court in A.S.No.546 of 2023, vide judgement dated 27.09.2024, in the case of ***“Union of India, rep. by Secretary to Government(Revenue), Puducherry and 2 others Vs.***



K.Rajeswari”, wherein, a Division Bench of this Court, has confirmed the order of the Reference Court enhancing the compensation and this judgment has reached finality. In such view of the matter, the judgment of the Division Bench of this Court, is certainly binding on the Government. A relevant portion as found in para 10, is extracted as under:

“10. We find that the land under acquisition is bounded on the north as well as the west by roads. The other sale deeds namely, Ex.C1 relates to land under acquisition itself and Ex.C5 relates to land in Survey No.167 which is bounded on the south and the north by roads Exs.C3 and C4 are also of lands which are abutting the lands under acquisition. Though they are situate on the other side of the temple, all these lands are situate within a very few meters from Dharbaranyeswara Swamy Temple and they possesses similar advantages. Therefore, we find that it will be proper for us to take into account those documents for fixation of the value of the land under acquisition. We must also bear in mind the settled position of law that the owner of the land under acquisition who is deprived of his property, is entitled to the highest value reflected by the exemplar sale deeds. The land covered by Ex.C5 is very near the acquired land and the value reflected by Ex.C5 is Rs.1,78,378/- per



Are. Though the learned Government Advocate would contend that sales of these lands are very proximate to the notification date and therefore, they should not be taken into account, the same argument would apply to the two documents that are now produced by the Government also and both the documents are in March 2007 which is also very proximate to the notification date. While exemplar method is adopted for determination of the value of the land, the previous sale deed that is very closer to the date of 4(1) notification should alone be taken into account. Apart from producing the sale deeds, the claimant has also produced the bank account statement of the purchaser under Ex.C2 and the income-tax returns of the vendor under Ex.C8. These two documents would demonstrate that the sale transactions cannot be said to be fictitious. We find that the learned trial Judge had considered these documents and has concluded that it will be safe to fix the value of the land at Rs.1,50,000/- per Are. ...”

8. Having regard to the above judgment, wherein, the Division Bench of this Court while relying upon the sale deeds pertaining to the land situated adjacent to the acquired land, has arrived at a conclusion that it



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would be just and reasonable to fix the value of the land at Rs.1,50,000/-, this Court has no hesitation to affirm the findings of the Reference Court in fixing the compensation at Rs.1,50,000/- per are and as such, there is no scope to interfere with the same.

9.In the matter of determination of just compensation to be awarded for land acquired, the authority shall take into consideration - first the market value of the land prevailing at the date of the publication of the notification and second the damage sustained by the interested person at the time of acquisition by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings, etc. Therefore, while acquiring the lands, the Government should prioritize ensuring the livelihood of the "land loser" by providing adequate compensation, facilitating resettlement options, and actively working to find alternative income sources for those displaced due to land acquisition, effectively mitigating the impact on their ability to sustain themselves after losing their land. It is also to be noted that if the lands have not been acquired and remained as agricultural lands, the land losers would have certainly developed the property even by rearing cattle, like goat, sheep and



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substantially sustain their livelihood throughout their lifetime by earning income from animal husbandry and this cannot be ignored altogether.

Therefore, this Court is of the view that the compensation enhanced by the Reference Court is just and reasonable which requires no interference.

10.In the light of the above discussion, I do not find any merit in this Appeal. Accordingly, the Appeal Suit is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

The learned District Judge, Puducherry at Karaikal



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N.SATHISH KUMAR, J

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