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A.S.No.176 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-07-2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

A.S.No.176 of 2021

and

C.M.P.Nos.15166 & 15168 of 2021

The Special Tahsildar
(Land Acquisition)
Most Backward Welfare Section, Vellore.

Appellant(s)

Vs

1.T.R.Damodaran
S/o.T.P. Rajendra Reddy,
presently residing at Sathuvachari Mount View Apartment,
Vellore - 632 009

2.R.Ramachandran
S/o. T.P. Rajendra Reddy,
residing at No.9, 6th Cross Street, A Sector V.G.Rao Nagar,
Tharapadavedu Post, Vellore -7

Respondent(s)

First Appeal filed under Section 54 of the Land Acquisition Act,
1894, to set aside the judgment and decree dated 18.06.2019 passed in



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L.A.O.P.No.86 of 2013 on the file of the Special Subordinate Court, Vellore.

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For Appellant(s) : Mr.V.Ramesh
Government Advocate
For R1 : Mr.S.Sathish
For R2 : Mr.T.T.Ravichandran

JUDGMENT

Unsuccessful Referring Officer/Special Tahsildar (Land Acquisition), Most Backward Class Welfare Section, Vellore, has preferred the appeal against the judgment and decree dated 18.06.2019 passed in L.A.O.P.No.86 of 2013 on the file of the Special Subordinate Court for L.A.O.P. cases, Vellore.

2. The parties will be referred to as per their rankings in the Court below.

3. The reference was made by the Referring Officer under Section 18 of the Land Acquisition Act, 1894 (for brevity “the Act”), in L.A.O.P.No.86 of 2013, as the claimants sought enhancement of



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compensation amount. The Court below has allowed the same and enhanced the compensation of Rs.30,66,079/- with 9% interest for one year from the date of award of Referring Officer and thereafter, at the rate of 15% interest till the date of deposit of the enhanced amount in the Court.

4. The brief averments of the reference referred by the Referring Officer are as follows:

The land situated at Thimiri Village, Arcot Taluk, Vellore District, to a extent of 1.44 hectares (3.55 acres) belonged to the claimants viz. T.R.Damodaran and R.Ramachandran. The said land was acquired for the purpose of providing homesites to the backward class people of Thimiri Village. The notification under Section 4(1) of the Act was published on 19.07.1996. The Referring Officer, in order to fix the market value of the land acquired, collected 63 sale documents registered during the period of one year prior to the acquisition, out of which, he rejected 62 sale documents for various reasons and took the sale deed pertaining to the land in S.No.656/5 Pathikaranpatti Village to determine the market value. Based on the market value of the land in S.No.656/5, the Referring Officer fixed



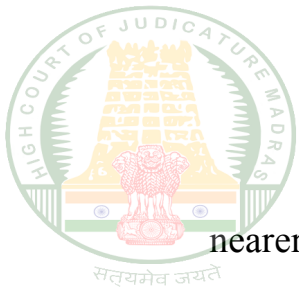
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the market value for the lands acquired at the rate of Rs.42,463/- per acre.

Accordingly, he assessed the land value for 3.55 acres of lands acquired at Rs.1,50,745/-. There was a brick-lined well constructed in the said land, for which, the Referring Officer assessed the value at Rs.1,83,116/-. He added 30% solatium and 12% interest and awarded a sum of Rs.4,95,100/- as total compensation. The claimants had 3/4th share in the brick-lined well. The total amount of compensation of Rs.4,27,212/- was paid to the claimants in equal share at the rate of Rs.12,13,606/- each. The claimants received the said compensation under protest and requested the Referring Officer to make reference. Hence, the petition.

5. The brief averments of the claim statement filed by the claimants are as follows:

The determination of the market value of the lands at the rate of Rs.424.63/- per cent is very low. The Referring Officer failed to note that there are rice mill, business complex, marriage halls, houses, Officers' Quarters, *etc.* surrounding the acquired lands. The acquired lands are very



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nearer to the Government Elementary School, Nehru Bazaar, police station,

bus stand and the main road from Thimiri to Kavanoor Village. The

acquired lands had a potentiality to be converted into homesites. The acquired lands are “Nanjaa wet lands”. The adjoining land measuring 25 cents, which belonged to the claimants, were sold to one K.V.Sridharan in the year 1992 for a sum of Rs.1,25,000/-. The Referring Officer failed to take into consideration of the said sale consideration before fixing the quantum of compensation. Thus, the claimants prayed for enhanced compensation.

6. Based of the above pleadings, the Court below has framed the following points for consideration:

- i. Whether the compensation amount determined by the Land Acquisition Officer for the acquired land is unreasonable and inadequate?
- ii. Whether the claimants are entitled to enhanced compensation, if it is yes, what is the amount?

7. During trial, the claimants examined T.R.Damodaran/first



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claimant as CW1, Govindarajan as CW2, Kavitha as CW3 and Gnanavel as CW4 and marked Exs.C1 to C11. On the side of the Referring Officer, one Ramesh/Special Tahsildar was examined as RW1 and no documents were marked.

8. Findings of the Court below:

8.1 The Referring Officer fixed the value of the lands acquired based on the value of the data land sold in S.No.656/5 in Pathikaranpatti Village, which was sold on 19.09.1994. The period of sale of the data land was much prior to the date of publication of the notification under Section 4(1) of the Act. The Referring Officer himself mentioned that the data land is situated one kilometer away from the acquired land.

8.2 Gnanavel (CW4), Village Administrative Officer, in his evidence, has stated that the land in S.No.656/5 is situated at Pathikaranpatti Village and it is 2 ½ kms. from the acquired land. He also stated that the land acquired by the Referring Officer comes within the limits of Thimiri Town Panchayat and the value of the acquired lands will not be in par with the value of the land in S.No.656/5.



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8.3 Ramesh (RW1), in his evidence, has admitted that the data land

is situated about 2 kms. away from the acquired lands. He also admitted that the acquired land is surrounded by marriage hall, residential houses, mills and Government offices and therefore, fixation of market value of the lands acquired based on the data land in S.No.656/5 is totally unacceptable.

8.4 Further, Kavitha, who was examined as CW3, physically verified the acquired lands and submitted a report in Ex.C10, but, in her evidence, admitted that she did not peruse or take into account any document or the relevant period for the purpose of assessing the market value of the acquired land. Though she (CW3) stated that the market value of 1 sq.ft. of the acquired land would be between Rs.650/- and Rs.750/-, there is no supporting document for the same.

8.5 In the sale deed marked as Ex.C1, a part of the land measuring 25 cents belonged to the claimants situated in the same survey number of the acquired lands was sold and Rs.1,25,000/- was mentioned as market value for the said 25 cents of land. Though Ex.C1 is not a contemporaneous document, it is the only document executed prior to the acquisition available in this case, which fulfil the factors like proximity, fertility, similarity and



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quality of the lands acquired. The land mentioned in the sale deed (Ex.C1) was sold in the year 1992 and the acquisition of the land in this case was done in the year 1998. However, relying the decision of the Apex Court in ***General Manager, Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another*** reported in (2008) 14 SCC 745, the Reference Court took the value mentioned in Ex.C1 as the market value of the lands acquired by giving 5% escalation in value mentioned in Ex.C1, as the acquired lands situated in Thimiri Town Panchayat comes under the rural area.

9. During pendency of this appeal, the appellant has filed the petition in C.M.P.No.15168 of 2021 under Order XLI Rule 27 CPC to receive and admit the letter dated 24.12.1992 mentioning the sale deed in Doc.No.402/1992 dated 22.04.1992 in the Office of the Sub-Registrar, Thimiri, as additional evidence.

10. It is stated in the affidavit filed by the appellant that the Reference Court has fixed the land value of the acquired land at Rs.6,250/-



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per cent as against the original compensation of Rs.424.63/-. The land mentioned in the sale deed in Ex.C1 marked by the claimants in S.No.873/1B was sold for a sum of Rs.1,25,000/- on 18.11.1992 when its guideline value was at Rs.36,300/- per acre, as per the guideline register maintained in the Sub-Registrar's Office, Arcot. The claimants did not disclose the aforesaid document before the Land Acquisition Officer at the time of award enquiry and to get higher compensation, they filed this document and it appears to be a motive sale. Hence, the said Ex.C1 ought not to be the basis, on which, the market value to be determined. The letter dated 24.12.1992 was found only in August 2021 from old records and therefore, the appellant was unable to produce the same before the Reference Court. The aforementioned additional document is necessary and relevant for adjudication of this appeal, as the document discloses the case of the claimants and proves that mischief has been made to hike the market value of the land by fictitious document by registering it on 06.11.1992 as Ex.C1. In the said letter dated 24.12.1992, the data land in S.No.656/5 in Doc.No.402/1992 dated 22.04.1992, in which, one acre was sold for Rs.34,904/-, but, in the same year, the sale created by the claimant in Ex.C1,



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25 cents was sold for Rs.1,25,000/- which is Rs.5,00,000/- per acre. In spite of due diligence, the above documents could not be produced due to non availability at the time of pendency of trial and the same is neither wilful nor wanton, but, for the reasons stated above. Hence, this petition.

11. It is stated in the counter affidavit filed by the first respondent/claimant that after 20 years of struggle, despite the judgment of the court, since the Government has not paid the enhanced compensation as ordered, the first respondent/claimant had filed a writ petition in W.P.No.14496 of 2020 and only as a counter blast, the present appeal has been filed by the appellant as an after thought to further delay the demand of enhanced compensation. The letter now sought to be introduced as additional document by the appellant is dated 24.12.1992, which is subsequent to the sale deed in Ex.C1 executed by the claimants. The first respondent/claimant is not a party to the said letter dated 24.12.1992 and the same is devoid of any enclosures as claimed. Further, one more sale deed dated 22.04.1992 in Doc.No.402/1992, which is now sought to be relied on by the appellant has no relevance to the land acquired in terms of factors



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like survey number, proximity, fertility, potentiality for increase in value, similarity and quality of the lands acquired. The false claim is being set up by the appellant only to deny the enhanced compensation fixed rightly by the Court below. The appellant had twenty years to produce the said documents, when the L.A.O.P. was languishing in the lower Court for two decades. Having failed to do so, it is wrong on the part of the appellant to now seek to introduce fresh documents. The tactics now been adopted by the appellant is sheer abuse of process of law.

12. It is stated in the counter affidavit filed by the second respondent/claimant that the appellant has not chosen to let additional evidence through the Referring Officer, who was examined as RW1. The document, which is now sought to be produced in Doc.No.402/1992 has nothing to do with the property, which was acquired and the data land in S.No.656/5 is two kilometers away in Pathikaranpatti Village. The appellant has not satisfied the ingredients under Order XLI Rule 27 CPC and no grounds have been made out to admit and receive additional documents.



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13. The points for determination that arise in this appeal are that (a)

whether the petition filed under Order XLI Rule 27 CPC in C.M.P.No.15168 of 2021 in A.S.No.176 of 2021 has to be allowed or not? and (b) whether the reliance on the sale deed in Ex.C1 by the Reference Court is erroneous?

14. The learned Government Advocate appearing for the appellant would submit that the sale deed (Ex.C1) in Doc.No.935/1992 dated 06.11.1992 was purposely registered for getting higher compensation and further, till date, the purchaser of the said land K.V.Sridharan has not come forward to receive the compensation so far. In the documents annexed along with the petition to receive the additional documents, wherein, the said letter dated 24.12.1992 was found only in August 2021 from the old records and therefore, the appellant was unable to produce the same before the Reference Court. The above additional document is necessary and relevant for adjudication of this appeal, which disproves the case of the respondents/claimants and proves that mischief has been done to hike the market value of the land by fictitious document executed under the sale deed in Ex.C1. Even with diligent effort, the above said documents could



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not be produced due to non availability at the time of pendency of trial and

it is neither wilful nor wanton. As per the guideline, the land in Doc.No.102/1992 was accessed at Rs.36,300/- per acre *i.e.* Rs.360/- per cent. The statutory period of three years of sale deed details for fixing compensation by the Land Acquisition Officer was from 20.07.1993 to 19.07.1996 and therefore, the sale deed in Ex.C1 ought not to be considered by the reference Court, since the sale deed is out of statutory period. The reference Court erred in not considering the development charges, while fixing the enhanced compensation at the rate of Rs.6,250/- per cent and he prays to receive the letter dated 24.12.1992 mentioning the sale deed in Doc.No.402/1992 dated 22.12.1992, as the same document would prove that the data sale relied on by the Referring Officer is correct and the same shall be relied on for fixing the fair and correct market value and compensation for the respondents/claimants.

15. *Per contra*, the learned counsel appearing for the first respondent/claimant would submit that the sale deed in Ex.C1 dated 06.11.1992 is the basis for fixation of value by the Reference Court,



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whereas, the letter dated 24.12.1992, which is now sought to be introduced as additional document by the appellant is subsequent to the sale deed in Ex.C1 and moreover, the first respondent/claimant is not a party to the said letter dated 24.12.1992 and even according to the appellant, the alleged letter is between the Special Tahsildar, Arcot and District Backward Class and Minorities Welfare Officer and is devoid of any enclosures as claimed. The document, which is now sought to be introduced, has no relevance to the land acquired in terms of factors like survey number, proximity, potentiality for increase in value, similarity and quality of the lands acquired. He would further submit that as per the Sub-Registrar, Thimiri, the value mentioned in the sale deed under Ex.C1 dated 06.11.1992 was inadequate and as a matter of fact, the additional stamp duty and registration fees were collected. Therefore, when the Sub-Registrar, Thimiri, who is also a Government official, claims that the value mentioned in the sale deed in Ex.C1 is low and it would be contradictory on the part of the appellant to claim that the value is high and the sale is motivated. After twenty years of struggle, despite the Court judgment, since the Government was not paying the enhanced compensation as ordered, the first respondent/claimant had



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preferred a writ petition in W.P.No.14496 of 2020 and only as a counterblast, the present appeal has been filed by the appellant as an after thought to further delay the payment of the enhanced compensation.

16. The learned counsel appearing for the second respondent/claimant would submit that the appellant has not satisfied the ingredients under Order XLI Rule 27 CPC and no grounds have been made out for production of additional documents. As per the judgment of Reference Court, enhanced compensation of Rs.30,66,079/- had been directed to be paid for the land measuring 3.55 acres in Thimiri Village. In fact, the land has been acquired for distribution of homesites for backward community people and later, after construction, some people have sold the same and made huge profits and therefore, the compensation amount ordered by the Reference Court is quite legal and it is not amenable to be challenged before this Court. The documents now sought to be produced has nothing to do with the property, which was acquired and the data land is situated two kilometers away in Pathikaranpatti Village.



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17. This Court has considered the submissions made on either side and perused the materials on record.

18. It may be apposite to extract Order XLI Rule 27, which reads as follows:

“27. Production of Additional Evidence in Appellate Court.- (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court, But if-

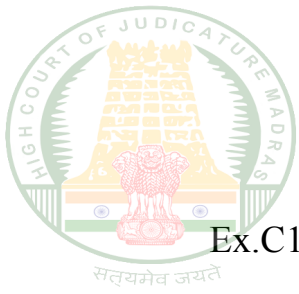
(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or]

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Whenever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.”

19. The letter, which is now sought to be produced as an additional evidence by the appellant, is dated 24.12.1992, whereas, the sale deed in



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Ex.C1 is dated 06.11.1992. Therefore, the letter is subsequent to the sale deed in Ex.C1. The said letter is the communication between the Special Tahsildar, Arcot and the District Backward Community and Minorities Welfare Officer and though it is stated that enclosures have been annexed, nothing was found in the said letter. In what way the said letter is relevant to decide this appeal has not been clearly mentioned in the affidavit. The reasons stated in the affidavit are insufficient and do not attract the ingredients as mentioned under Order XLI Rule 27 CPC. Even if the document is received as an additional evidence, it would not make any relevance to decide the issue involved in this appeal. Since, there is no merit in the petition in C.M.P.No.15168 of 2021 filed by the appellant to admit and receive additional evidence, the same is liable to be dismissed. Hence, C.M.P.No.15168 of 2021 is dismissed.

20. It is not in dispute that the lands measuring 3.55 acres situated in S.No. 870/4B, 870/3, 871/1B, 871/2, 872 and 873/1B of Thimiri Village belonged to the respondents/claimants were acquired by the Referring Officer for the purpose of providing homesites to the backward class people in Thimiri Town Panchayat. The Referring Officer fixed the value of the



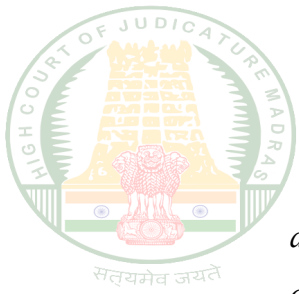
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land acquired based on the value of the data land in S.No.656/5 in Pathikaranpatti Village, which was sold on 19.09.1994. The notification under Section 4(1) of the Act was published on 19.07.1996. The period of sale of the data land was prior to the date of publication of notification under Section 4(1) of the Act. The Referring Officer himself has mentioned that the data land is situated one kilometer away from the acquired land. It is also stated that the fertility, quality and classification of the data land were different from that of the acquired land.

21. It is a settled proposition that it is the duty of the Court to award just and fair compensation taking into consideration the true market value and other relevant factors irrespective of the claim made by the owner. At this point, it is germane to refer the judgment of the Apex Court in ***Ashok Kumar and another Vs. State of Haryana*** reported in ***(2016) 4 SCC 544***, wherein, it has been held as follows:

7. The pre-amended provision puts a cap on the maximum : the compensation by court should not be beyond the amount claimed. The amendment in 1984, on the contrary, puts a cap on the minimum : compensation cannot be less than what was awarded by the Land Acquisition Collector. The cap on maximum having been expressly omitted,



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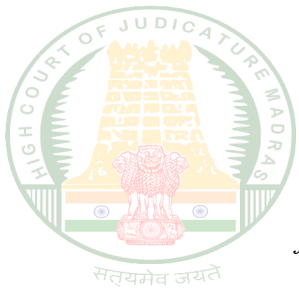
and the cap that is put is only on minimum, it is clear that the amount of compensation that a court can award is no longer restricted to the amount claimed by the applicant. It is the duty of the court to award just and fair compensation taking into consideration the true market value and other relevant factors, irrespective of the claim made by the owner.

22. It is the duty of this Court to take into account all the relevant materials and evidence and see to it that the claimants are paid just compensation. The entire case of the respondents/claimants is based on four documents viz. sale deeds in Exs.C1, C5, C6 and C7.

23. It is *apropos* to mention that Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) mandates that the market value of the land should be assessed and determined by taking into account the average sale price of similar type of land situated in the nearest village or nearest vicinity area.

24. In ***U.P.Awas Evam Vikash Parishad Vs. Asha Ram*** reported in ***(2021) 17 SCC 289***, the Apex Court has held as follows:

“29. The potentiality of the acquired land is one of the primary



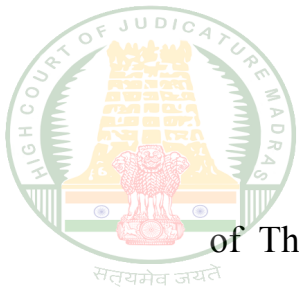
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factors to be taken into consideration to determine the market value of the land. Potentiality refers to the capacity or possibility for changing or developing into the state of actuality. The market value of a property has to be determined while having due regard to its existing conditions with all the existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not primarily depends upon its condition, situation, use to which it is put or its reasonable capability of being put and also its proximity to residential, commercial or industrial areas/institutions. The existing amenities like water, electricity as well as the possibility of their further extension, for instance whether near about town is developing or has prospects of development have to be taken into consideration. It also depends upon the connectivity and the overall development of the area.”

25. It is seen from the records that the lands of the respondents/claimants have been acquired by the government for the purpose of constructing homesites for the backward class people in Thimiri Town Panchayat Village. Ramesh/RW1/Special Tahsildar that the data land in S.No.656/5 is situated about two kilometers away from the acquired land. He further admits that the data land is surrounded by other agricultural lands. Further, he admits that the acquired lands belong to the respondents/claimants are situated nearer to the main road within the limits



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of Thimiri Town Panchayat. He also admits that the acquired lands are surrounded by marriage halls, residential houses, mills, Government Offices.

26. Gnanavel/CW4, Village Administration Officer of Thimiri Village, deposed that the data land in S.No.656/5 is situated in Pathikaranpatti Village and it is two and a half kilometers from the acquired lands. He further deposed that the acquired lands come within the limits of Thimiri Town Panchayat and the value of the acquired lands will not be in par with the value of the data land.

27. Govindarajan/CW2, in his evidence has stated that he assessed the acquired land on 28.07.2014 and fixed the value at Rs.1,29,50,000/- per acre. The Reference Court has stated that assessing of the land by Govindarajan/CW2 pertains to the year 2014 and that too without any documentary evidence is not reliable one and has rightly rejected the same. Similarly, attempts were made through an Advocate Commissioner viz. to assess the value of the acquired land. Though Kavitha/CW3, Advocate



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Commissioner, deposed that the market value of one square feet of acquired lands would be Rs.600 to Rs.750/-, without any supporting documents, the same came to be rejected by the Reference Court.

28. The sale deed in Ex.C1 dated 06.11.1992 pertains to the land in S.No.872 and 872/1B and it is a part of the lands measuring 25 cents belonged to the claimants and also situated in the same survey number of the acquired lands. It is seen from the sale deed in Ex.C1 that a sum of Rs.1,25,000/- has been mentioned as market value and it is the only document executed prior to acquisition. The sale deed under Ex.C1 and the acquired lands are situated in the same survey number belonged to the claimants themselves. Though the land in the sale deed under Ex.C1 was sold in the year 1992 and the acquisition of land was done in the year 1998, by relying the judgment of the Supreme Court in ***Oil and Natural Gas Corporation Limited*** cited *supra*, the Reference Court fixed the market value of the acquired land at Rs.6,250/- per cent by giving 5% escalation in the value mentioned in the sale deed in Ex.C1, as the acquired lands come under rural area.



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29. The contention of the appellant that the purchaser of the land in the sale deed in Ex.C1 viz. K.V.Sridharan has not come forward to receive the compensation so far and the finding of the Reference Court that said sale deed in Ex.C1 is an unreliable document is not acceptable one. It is seen that as per the Sub-Registrar, Thimiri, the value of land mentioned in the sale deed Ex.C1 was inadequate and as a matter of act, additional stamp duty and registration fees were collected, which is evident from the endorsement made in the sale deed. The letter now sought to be introduced as an additional evidence by the appellant is dated 24.12.1992 and the same is subsequent to the sale deed in Ex.C1 and the claimants are not party to the said letter dated 24.02.1992 and therefore, the same cannot be taken into consideration.

30. In view of the foregoing discussions, this Court finds no merit in this appeal. The Reference Court has rightly answered the points raised in this appeal. The points are answered accordingly.



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In fine, this First Appeal is dismissed by confirming the judgment and decree dated 18.06.2019 passed in L.A.O.P.No.86 of 2013 on the file of the Special Subordinate Court, Vellore. No costs. Connected C.M.Ps. are closed.

02-07-2025

nsd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

The Special Subordinate Judge for L.A.O.P. Cases,
Vellore, Vellore District.



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