BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.03.2025

Pronounced on : 11.03.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

A.S.(MD)No.168 of 2022
and
A.S.(MD)No.20 of 2023
and
C.M.P.(MD)No.1119 of 2023

A.S.(MD)No.168 of 2022:-

R.Ramachandran ... Appellant

Vs.

The Special District Revenue Officer
(Land Acquisition),
Tamil Nadu Road Sector Project – II,
No.14, Abdul Salam Street,
Kaja Nagar, Mannarpuram,
Tiruchirappalli – 620 020. ... Respondent

Prayer : Appeal Suit is filed under Section 96 of Civil Procedure Code, to set aside the fair and decreetal order dated 09.11.2021 passed in L.A.O.P.No.137 of 2019 on the file Principal District Court, Tirunelveli.

For Appellant : Mr.M.P.Senthil

For Respondent : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.K.Balasubramani,
Spl. Government Pleader.

<u>A.S.(MD)No.20 of 2023:-</u>

The Special District Revenue Officer (LA),
Tamil Nadu Road Sector Project – II,
No.14, Abdul Salam Street, Kaja Nagar,
Mannarpuram,
Tiruchirappalli – 620 020. ... Appellant

Vs.

R.Ramachandran ... Respondent

Prayer : Appeal Suit is filed under Section 54 of the Land Acquisition Act, to set aside the fair and decreetal order dated 09.11.2021 made in L.A.O.P.No.137 of 2019 on the file Land Acquisition, Rehabilitation and Resettlement Authority / Principal District Judge, Tirunelveli.

For Appellant : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.K.Balasubramani,
Spl. Government Pleader.

For Respondent : Mr.M.P.Senthil

COMMON JUDGMENT

Heard both sides.

2.The lands belonging to R.Ramachandran comprised in S.No.254/1B in Thisaiyanvilai measuring an extent of 1937 sq. m. was acquired for widening state highways road (SH – 89). The acquisition process commenced with issuance of notification published under Section 15(3) of Tamil Nadu Highways Act, 2001, on 23.04.2015. Interim award was passed on 24.04.2017 and final award was passed on 20.10.2017. The Land Acquisition Officer / Special District Revenue Officer, Tamil Nadu Road Sector Project – II , Tiruchirappalli fixed the market value for the acquired land at Rs.77.28 per sq. m. Aggrieved by the same, the land owner sought reference under Section 65 of the Central Act No.30 of 2013. The learned Principal District Judge, Tirunelveli took cognizance of the same in L.A.O.P.No.137 of 2019. The land owner filed claim statement before the Court below. He examined himself as P.W.1 and marked Exs.P1 to P11. The Land Acquisition Officer, Tamil Nadu Road Safety Project – II, Tiruchirappalli was examined as R.W.1 and Exs.R1 to R8 were marked. After consideration of the materials on record, the learned Principal District Judge vide order dated 09.11.2021 in L.A.O.P.No.137 of 2019 enhanced the market value of the land to Rs.881.60 per sq. m. The land owner was also held entitled to other statutory benefits. Aggrieved by the said order, both the land owner as well as the government have filed appeals. A.S.(MD)No. 168 of 2022 was filed by the land owner while A.S.(MD)No.20 of 2023 was filed by the government.

3.The learned Additional Advocate General assisted by the learned Special Government Pleader submitted that the Court below erred in making a steep enhancement without any basis. According to him, the award of the Land Acquisition Officer was justified and that interference with the same was not warranted. He further contended that having prayed for awarding a sum of Rs.865.37 per sq. m. before the Land Acquisition Officer, the land owner was not justified in filing an appeal when the reference Court had awarded him a sum of Rs.881.60. He called upon this Court to set aside the impugned order and allow A.S.(MD)No.20 of 2023 and dismiss A.S.(MD)No.168 of 2022.

4.Per contra, the learned counsel for the land owner submitted that even if he had originally demanded a lesser sum as compensation out of ignorance, that would not come in the way of him claiming a just compensation later. In any event, the land owner had demanded payment of a sum of Rs.2,517.96 per sq. m. in his claim statement before the Reference Court. He added that in the very same acquisition notification, similarly placed individuals were paid compensation at the rate of Rs.2,500/- per sq. m. Relying on the decisions of the Hon'ble Supreme Court reported in ***(2016) 4 SCC 544 (Ashok Kumar Vs. State of Haryana), 2018 SAR (Civil) 42 (Narendra Vs. The State of Uttar Pradesh)*** and ***2022 Supp. SAR (Civ) 298 (Jai Parkash Vs. Union Territory, Chandigarh***, the learned counsel submitted that there should not be discrimination in the award of compensation among those covered by the same notification. That would be nothing but travesty of justice. His core argument is that when Exs.P7, P10 and P11 pertaining to sale transactions of lands in the immediate vicinity are taken into account, the value of the claimant's land should also be fixed at Rs.2,500/- per sq. m. The learned counsel went to the extent of stating that if at all deduction has be to made, still the land owner is entitled to Rs.1,250/- per sq. m.

He called upon this Court to allow A.S.(MD)No.168 of 2022 and dismiss A.S.(MD)No.20 of 2023.

5.We carefully considered the rival contentions and went through the evidence on record. We endorse the contention of the learned counsel for the land owner that the person whose land has been acquired is entitled to just compensation and the fact that he claimed lesser amount before the Land Acquisition Officer or even before the Court is irrelevant. The Hon'ble Supreme in its decision reported in **(2016) 4 SCC 544 (*Ashok Kumar v. State of Haryana*)** 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, 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."

It is our duty to take into account all the relevant materials and evidence and see to it that the claimant is paid just compensation. Thus, the fact that the claimant sought only Rs.865.37 before the Land Acquisition officer cannot be put against him.

6.As already noted, the entire case of the land owner is based on three documents namely, Exs.P7, P10 and P11. If the value of the claimant's land is to be fixed with reference to the aforesaid three sale particulars, then the claimant would be entitled to compensation at the rate of Rs.2,500/- per sq. m. But then, such would be the position only if the lands covered by those three sale deeds are similar or comparable. Section 26 of the Central Act No.30 of 2013 mandates that the market value of the land should be assessed and determined by taking into account, the average sale price for similar type of land situated in the nearest or nearest vicinity area.

7.The expression “similar type of land” occurring in Section 26(3) of the Act is significant. There is one strikingly distinguishing feature. The claimant's land has been classified as “dry agricultural land”. On the other hand, the lands covered by the aforesaid three documents fall under “residential plot category”. The extent of land covered under Ex.P7 is 405 sq. m. The extent of land covered under Ex.P10 is even lesser ie., 370.44 sq. m. The extent of land covered under Ex.P11 is 123.65 sq. m. It is too obvious that the three sale deeds projected by the claimant in support of his claim are in respect of smaller extent of land. The revenue classification is also different.

8.The Court below declined to take the said documents into account more for the reason that the topography sketch was not produced. But before us, the topography sketch was produced and it is seen that the lands covered under the aforesaid three sale deeds are located in the vicinity. The Hon'ble Supreme Court in the decision reported in **(2021) 17 SCC 289** (***U.P. Awas Evam Vikash Parishad v. Asha Ram***) held as follows:

> "**29.** The potentiality of the acquired land is one of the primary 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."

We can therefore safely conclude that the claimant's lands have the potential to develop into house sites in future. But as on date, for the twin reasons mentioned above, they cannot be compared as such. But the value of the lands set out in those three documents can be taken as the basis. In ***Manilal Shamalbhai Patel v. Officer on Special Duty (Land Acquisition)*** reported in **2025 SCC OnLine SC 634,** the Hon'ble Supreme Court as regards deduction on account of the acquired land being an agricultural land held as follows:

"**11.** It is an accepted principle that the land acquired is never used in the form it exists. It has to be first developed and made suitable either for habitation or for industrial purposes. In this connection, obviously roads have to be carved out, some open area has to be left for green belts, water, sewerage and electricity lines have to be laid down and the plots have to be carved out into some regular sizes and shapes. In this way, the transferable/saleable area hardly remains to be 50% of the land acquired. In such a situation, the courts have repeatedly held that 30% to 50% deduction be made from the rate for the purposes of such development."

Considering the facts and circumstance of the present case, we are of the view that it would be appropriate to effect 55% deduction.

9.The market value of the claimant's land can be fixed at the rate of Rs.1,125/- per sq. m. The compensation is as follows:-

The extent of land is 1937 sq. m. The total value is Rs.21,79,125/-. The value of the trees is Rs.81,717/-. The value of the acquired land is Rs. 22,60,842/-. 20% has to be deducted towards development charges. The figure now comes to Rs.18,08,674/-. As per Section 30 of the Act, 100% solatium has to be given. The figure now comes to Rs.36,17,348/-. The claimant is entitled to additional amount at the rate of 12% per annum from 23.04.2015 to 20.10.2017 on the market value."

10.Section 30(1) of the Act envisages payment of solatium amount equivalent to 100% of the compensation amount. Section 30(3) of the Act envisages payment of interest on the market value. Therefore, the amount contemplated under Section 30(1) of the Act and the amount contemplated under Section 30(3) of the Act, cannot be one and the same. It is well settled that the solatium as contemplated under sub-section (1) of Section 30 of the 2013 Act has to be calculated only on the market value plus the value of the assets attached to the land i.e. total compensation amount as determined as per Sections 26, 27 and 28 of the 2013 Act which shall not include the additional amount at the rate of 12% p.a. on such market value as payable under sub-section (3) of Section 30 of the 2013 Act ***(R.B. Dealers (P) Ltd. v. Metro Railway, Kolkata, (2019) 20 SCC 658)***. The Court below had awarded interest not on the market value but on the compensation eventually arrived at. This is incorrect. Therefore, the claimant would be entitled to additional amount calculated at the rate of 12% per annum on Rs.22,60,842/- from

23.04.2015 to 20.10.2017. The reference officer had deposited a sum of Rs.4,98,841/-. The claimant would be entitled to interest at the applicable statutory rates.

11.The impugned order is accordingly modified. A.S.(MD)No.168 of 2022 filed by the claimant is partly allowed. A.S.(MD)No.20 of 2023 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (M.J.R. J.,)
11.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

1.The Principal District Judge, Tirunelveli.

2.The Special District Revenue Officer (Land Acquisition),
Tamil Nadu Road Sector Project – II,
No.14, Abdul Salam Street, Kaja Nagar,
Mannarpuram, Tiruchirappalli – 620 020.

G.R.SWAMINATHAN, J.
and
M.JOTHIRAMAN, J.

ias

A.S.(MD)No.168 of 2022
and
A.S.(MD)No.20 of 2023

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