
(2017) 04 MAD CK 0178
In the Madras High Court
Case No : 98 to 102 of 2017

The Special Tahsildar (LA)

APPELLANT

Vs

Kasthuri & Ors.

RESPONDENT

Date of Decision : 04-04-2017

Acts Referred:

Land Acquisition Act, 1894, Section 54,
Section 4(1) - Appeals in proceedings before Court - Publication
of preliminary notification and powers of officers thereupon.

Citation : (2017) 04 MAD CK 0178

Hon'ble Judges : N.Sathishkumar

Bench : SINGLE BENCH

Advocate : N.Sathishkumar

Judgement

1. These appeals are filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894, challenging the enhancement of compensation granted by the III Additional District Judge, Tiruvallur @ Poonamallee.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant, Mr.N.Sankaravadivel, learned counsel appearing for the claimants and Mr.C.Johnson, learned Standing Counsel appearing for the Chennai Metropolitan Development Authority.

3. By G.O.Ms.No.381, Housing and Urban Development Department dated 25.5.1993, the Government approved proposals for development of Outer Ring Road. The administrative sanction was accorded by G.O.Ms.No. 983, dated 27.11.1995 for the acquisition of land for Phase-I. By G.O.Ms.No. 385, dated 16.10.1998, the administrative sanction was accorded for land acquisition for Phase-II.

4. A Notification under Section 4(1) of the Land Acquisition Act was published in the Government Gazette on 10.9.2004. It was published in the newspapers on 01.11.2004 and in the locality on 04.11.2004.

5. In respect of lands of the extent of 4.06.0 hectares in S.F.Nos. 536/1A, 536/1B, 536/1C, 536/2A1, 536/2A2, 536/2B2, 539/1, 539/2, 539/4, 539/5A, 539/5B1A, 539/5B1B, 539/5B1C, 539/5B2, 540/1A, 540/1B, 540/1C, 540/1D, 540/1D, 540/1E, 584/1A1A1, 584/1A1A2, 584/1A2, 584/1B, 584/25, 585/1A, 585/1B, 585/1C, 585/1D, 585/1E, 585/1F, 585/2B1, 585/2B2, 585/2C, 585/2D, 585/3B1, 585/3B2, 585/4D, 586/1A, 586/1B1B, 586/1B2, 586/2B2, 586/2B3 and 586/5B in No.14 Pammadukulam Village, Ambattur Taluk, was acquired by the said Notification, an award was passed in award No.3/2007 dated 30.10.2007. Before passing the award, the Land Acquisition Officer took note of the fact that about 407 sale transactions had taken place during the period of three years immediately preceding the date of Notification under Section 4(1). Out of them, 209 transactions were rejected on the ground that they related to house sites. 71 sale transactions were rejected on the ground that though the acquisition field is similar in Soil/Sort/Tharam for the dry lands, there is a sale near the acquisition area. 7 sale transactions were rejected on the ground that proceedings under Section 47A of the Indian Stamp Act were pending. 58 sale transactions were discarded on the ground that the lands were located 1.6 Kms away. 44 sale transactions were discarded on the ground that they related to manavari lands sold as house sites. 10 sale transactions were discarded on the ground that they related to low lying lands. Two sale transaction were rejected on the ground that it relates to settlement deeds. Four sale transactions were rejected on the ground that it relates to mortgage deeds. One sale transaction was rejected on the ground that it relates to Grama Natham.

6. Ultimately, the Land Acquisition Officer took note of only one sale transaction at S.No.17 wherein the land of an extent of 42 cents in S.F.No. 565/19A and 19B was sold at the rate of Rs.550/- per cent. Therefore, the Land Acquisition Officer fixed the compensation at Rs.550/- per cent.

7. The Land Acquisition Officer has made References under Section 18 of the Act, and they were taken on file by the III Additional District Court, Thiruvallur @ Poonamallee in L.A.O.P.Nos.421, 423, 427, 428 and 471 of 2008. One of the claimants was examined as C.W.1 and three documents were marked as Ex.C1 to Ex.C3. Ex.C.1 is the sale deed dated 27.6.2005 in document No.3631/2005. Ex.C2 is the sale deed dated 5.1.2006 in document No.68/2006. Ex.C.3 is the copy of the Judgment dated 30.7.2011 passed by the Fast Track Court-II, Poonamallee in L.A.O.P.No.324/2005. The Special Tahsildar was examined as R.W.1 and the award was marked as Ex.R.1.

8. Based on the rate fixed by the Fast Track Court-II, Poonamallee in L.A.O.P.No.324/2005 dated 30.7.2011 at Rs.9184/- per cent, in respect of the transaction at Serial No.141, Survey No.67/2 which was marked as Ex.C3, which was registered as document No.421 dated 5.2.2003, much prior the date of the Notification under Section 4(1), the III Additional District Court, Thiruvallur @ Poonamallee came to the conclusion to fix the market value of the land at Rs.9184/- per cent. The Court below also found that some of the lands acquired

were actually house sites located in a layout. Ultimately, the Court below taking into consideration of the market rate fixed at Rs.9184/- per cent reflected in Ex.C.3, passed an Award fixing the market rate at Rs.10,000/-) per cent. Aggrieved by such enhancement, the Land Acquisition Officer is before this Court.

9. Learned counsel appearing for the both sides fairly conceded that the amount fixed by the trial Court is not required any interference in view of the fact that in a similar fact situation, a Division Bench of this Court has upheld the Judgment and decree passed by the learned trial Court. The learned trial Court taking into consideration of the facts that the lands acquired were situate near the developed area, fixed a sum of Rs.10,000/- per cent.

10. When the similar area where the lands were acquired in the same Survey Numbers were subjected for appeal before this Court, the Division Bench of this Court in A.S.No.472 to 480 of 2012, taking into consideration of the location of the lands acquired which is within the urban agglomeration of the City of Chennai and the area has already developed fast into an industrial and semi urban area, has confirmed the Judgment and decree passed by the trial Court.

11. Learned Government Pleader appearing for the appellant in this case has fairly conceded that in the event of confirming the judgment and decree passed by the learned trial Court in respect of the lands acquired by the appellants in similar area in the same Survey Numbers, the same will meet the ends of justice. Learned counsel for the respondents also conceded for the same.

12. Taking into consideration of the fact that the Division Bench of this Court has upheld the Judgment and decree passed by the trial Court in respect of the similar fact situation where the lands were acquired in the same Survey Numbers and taking into consideration of the fact that the trial Court in this case has arrived at the compensation at Rs.10,000/- per cent, based on the sale deed referred to under Ex.C3 which was registered as document No.421 dated 5.2.2003, much prior the date of the Notification under Section 4(1), this Court does not find any infirmity in the judgment and decree of the trial Court.

13. Accordingly, the award passed by the trial Court is confirmed and all these appeals stand dismissed. No costs. Consequently, C.M.P.Nos.4117 to 4121 of 2017 are closed.