IN THE COURT OF THE PRINCIPAL JUDGE,

CITY CIVIL COURT AT CHENNAI

Present : **Tmt. S. Alli, M.L.,**
Principal Judge

Friday, the 30th day of August 2024

L.A.O.P.No.28/2022
(TNCH01-030437-2021)

R. Suresh ... Claimant

..Vs..

1. The District Collector
   Chennai District,
   Chennai - 600 001.

2. The Special Tahsildar (LA)
   MRTS Phase II Extension,
   Mylapore @ CMDA,
   Egmore,
   Chennai 600 008. … Referring Authorities.

The petition is coming on 12.8.2024 before me for final hearing in the presence of M/s. A. E. Ravi Chandran, N. Anbazhagan, D. Vishnu Varadhan, Counsel for the Claimant and of City Government Pleader, Counsel for the Referring Authorities and upon hearing the arguments on the side of the claimant and on perusal of the written submissions filed on the side of the referring authorities and on perusal of the records and having stood over for consideration till this day, this Court delivered the following;

ORDER

This is a reference under Sec.64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

2. The material facts stated in the reference runs as follows:

The claimant herein was the owner of the flat with land measuring 318.64 sq.ft. out of total UDS 1851 sq.ft. with superstructure measuring 637 sq.ft. situated at T.S.No.40/2 (part), Block No.8, Adambakkam Village, Thillai Ganga Nagar, 3rd Street, Chennai 600 061 and the same was acquired by the Land Acquisition Officer for the benefit of Mass Rapid

Transit System, Phase-II Extension. The acquisition was undertaken by invoking Sec.17(4) of Urgency Clause dispensing with enquiry under Sec.5(A). Interim Award was passed on 15.9.2014 by the 2nd respondent. Against which, the claimant and others have preferred Writ Petitions, whereby the Hon'ble High Court of Madras quashed the interim awards and directed the respondents to follow the provisions of the New Act and to tender interim award. Accordingly, the government issued G.O.Ms.No.152 and a revised interim award of Rs.18,26,353/- was passed by the Land Acquisition Officer. Subsequently, Final Award No.1/2019 for an amount of Rs.40,28,704.7 was passed by the Land Acquisition Officer on 16.3.2020. The breakup details for the final award was given by the 2nd respondent vide his proceedings in R.C.2/2016/A dated 22.12.2020 and after deducting the interim award amount of Rs.18,26,353/-, the remaining amount of Rs.22,02,352/- was paid to the claimant. However, not satisfying with the amount of compensation awarded by the respondent, the claimant, who has received the sum of Rs.40,28,704.7 towards compensation, without prejudice to his right, has filed a reference u/s.64 of the New Act before the Collector, Chennai for reference to the Land Acquisition Rehabilitation and Resettlement Authority, Chennai - cum - Principal District Court, Chennai for determination of fair enhanced compensation. On receipt of the said application, the matter has been referred before this court by the referring authorities.

3. <u>Brief averments made in the claim statement are as follows:</u>

The claimant herein was the owner of the flat with land measuring 318.64 sq.ft. out of total UDS 1851 sq.ft. with superstructure measuring 637 sq.ft. situated at T.S.No.40/2 (part), Ward E, Block No.8, Adambakkam Village, Thillai Ganga Nagar, 3rd Street, Chennai 600 0671 and the same was acquired by the Land Acquisition Officer for the benefit of Mass Rapid Transit System, Phase-II Extension and a compensation of Rs.40,28,704.7 was awarded and the same was paid after adjusting the interim award by order dated 22.12.2020. The compensation awarded is very low and not in accordance with RFCTLARR Act, 2013. The claimant received the compensation as above without prejudice to his right to claim for enhanced compensation and subsequently made a written application under Sec.64 of the said New Act, to the District Collector for determination of enhanced compensation by the authority. The said objections have been referred before the City Civil Court by the District Collector for determination of enhanced compensation. The market rate has been arrived in respect of claimant's land at Rs.3,743/- per sq.ft. is less; whereas for other landowners, it was fixed at Rs.4500/- per sq.ft., though the lands acquired are situated within a radius of 400 metres and hence the said market rate fixed is arbitrary. While calculating the market rate, the 2nd respondent had not exercised the jurisdiction transparently and failed to note that the prevailing market rate as on 01.01.2014 within the vicinity was more than Rs.9000/- per sq.ft. as the lands acquired were very near to 100 feet road connecting Velachery and G.S.T. Road nearer to Pazhavanthangal Railway Station which was fully developed with shops etc. Further within the said 400 sq.metre, there are sale deeds registered at the SRO, Alandur which were registered for a value of Rs.9000/- per sq.ft. As per Doc.No.3114/2023, dated 26.8.2013, the land was registered at the value of Rs.9,575/- per sq.ft. ; as per the document No. 4092/2013 dated 14.11.2013, the said land was registered at the value of Rs.7107/- per sq.ft. and in document No.4416/2014 dated 30.10.2014, the land was registered at the value Rs.8,000/- per sq.ft. Whereas, the registered sale deed taken into account by the acquisition officer was for the period of 3 years prior to 01.01.2014 i.e., as on date of publication of notification under Section 4(1) of the Land Acquisition Act issued on 11.02.2011 which does not reflect the real market value as on 01.01.2014 as per the notification under New Act. The market value of the adjacent non acquired lands ought to have been taken to arrive at the market value for determining compensation and in the case of claimant, it was more than Rs.9000/- per sq.ft. as on 01.01.2014. The multiplication factor prescribed under Section 26(2) of the Act has not been properly applied. As on 01.01.2014, the Adambakkam Village was not included within the limits of Greater Chennai Corporation and hence the multiplication factor of 1.25 has to be applied in arriving at the compensation for land which has not been done in the case of claimant. The solatium should be equivalent to the multiplication factor which is 1.25 of the market value of the land and value of assets. The structure value of the building has not been properly evaluated and the value as on 01.01.2014 was much more as the building was wall and maintained and the value was more than Rs.1400/- per sq.ft. The 12% additional market value was not properly calculated from 01.01.2014 and there are discrepancies in calculation of dates. As per the letter

D.O.No.13013/01/2014-LRD (Pt) dated 26.10.2015 issued by the Government of India, 12% interest should be from the date of preliminary notification. The deduction period of stay from 21.03.2016 to 20.12.2018 is illegal as the land owners have in fact succeeded in getting the relief by fixing the market rate as on 01.01.2014 under the RFCTLARR Act, 2013. Whereas earlier, a rate of Rs.1912/- per sq.ft. was taken as market value and hence 12% additional market value should have been given from 1.1.2014 including the stay period. Further the persons who have not approached the Court at all were extended with the benefits of court order dated 05.03.2019 in W.A.No.347 of 2019 batch and were given 12% additional market value without deducting the stay period. Whereas the persons who actually filed the cases were denied of such a benefit and hence the method adopted by the 2nd respondent is arbitrary, irrational and unfair. As per G.O.Ms.No.34, dated 11.02.2011, Section 4(1) notification under the Land Acquisition Act, 1894 (Central Act 1 of 1895) hereinafter referred to as the Old Act, was issued providing for Acquisition of lands under Adambakkam Village, Alandur Taluk & Town, Kancheepuram District for the MRTS Phase II Extention Scheme. The Government invoked the urgency clause, under sub-section (4) of Section 17, dispensing with enquiry under section 5(A) of the Old Act and later G.O.Ms.No.222 dated 11.10.2012 was issued for declaration under Section 6 of the said Old Act. The additional compensation of 75% under Section 40(5) of the RFCTLARR Act, 2013 for invoking urgency clause has not been paid. Originally, notifications u/s. 4(1) and 6(1) were issued by invoking urgency clause under Section 17(1) of the Old Land Acquisition Act, 1894, thereby inquiry under Section 5-A, was dispensed with and as per the order dated 5.8.2015 of the Hon'ble High Court, Madras in W.P.No.27550 of 2014 batch, an additional compensation of 75% of total compensation as determined under Section 27 of the RFCTLARR Act 2013, by including all assets attached to the land should be paid along with interest from 01.01.2014, has not been done in the present case. The consequence of change of residence for the land owners is view of the acquisition, reasonable expenses incidental to such change, has not been factored in arriving the compensation. The claimant reserves his right to raise additional grounds and file necessary additional documents to prove his case. Therefore, it is prayed this court to fix fair compensation in accordance with the Right to Fair Compensation And Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and direct the respondents to pay the same to the claimants.

4. Brief averments made in the counter statement filed by the 2nd respondent adopted by the 1st respondent is as follows:

The claimant herein was the owner of undivided share to an extent 318.64 sq.ft. out of 1851 sq.ft. of land with superstructure measuring 637 sq.ft. situated in Thillaiganga Nagar 3rd Street, Chennai - 600 061. The said land was acquired for MRTS, Phase-II Extension Scheme and a compensation to the tune of Rs.40,28,704.7 was awarded and the same was paid to the claimant after adjusting the interim award which was passed on 22.12.2020. Aggrieved by the said amount of compensation awarded by this respondent, the petitioner who received the compensation without prejudice has filed a reference under Section 64 of New Act. The said reference was sent to the Principal Judge, City Civil Court along with this office Rc.No.2/2016/A dated 20.10.2021. The claimant submits that the market rate has been arrived in respect of the claimant's land at Rs.3743/- per sq.ft. is less while comparing to the market value fixed at Rs.4500/- to the other land owners which is situated within the said radius of 400 meters and hence claims that the said fixation is arbitrary. The claimant submits that the present market value of the acquired land as on 01.01.2014 is Rs.9000/- per sq.ft. As the petitioner's land was very near to 100 feet Road connecting Velachery to GST Road near Pazhavanthangal Railway Station which is fully developed with shops etc. The petitioner claims that the market value of the land works out of Rs.9000/- and filed three registered Sale Deeds in Doc. No.3114/2013 dated 26.08.2013 - Rs.9575/- per sq.ft. (ii)Doc No.4092/2013 dated 14.11.2013 - Rs.7107/- per sq.ft. and Doc.No.4416/2014 dated 30.10.2014 - Rs.8000/- per sq.ft. At this juncture, the petitioner has filed this O.P. with a prayer to fix a fair compensation in accordance with the "Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" and to pay the same to the claimants. The petitioner himself admits that the award was passed in Award No.1/2019 on 16.03.2020 and a sum of Rs.40,28,704.7 was awarded as compensation after adjusting the interim award passed on 22.12.2020. The date for calculation of market value under Section 24(1)(a) of Act 30/2013 was clarified as 01.01.2014 i.e., the date of the commencement of Act 30/2013. Though the petitioner submits three documents bearing

Document Nos.3114/2013, 4092/2013 and 4416/2014, the sale taken place in document No.4416/2014 is discarded as the said sale had taken place after the commencement of the Act 30/2013. As regards the sale taken place in document No.3114/2013, the said sale consideration of Rs.28,47,100/- is towards the cost of the undivided share of the land measuring 509 sq.ft. out of 3200 sq.ft. together with the building thereon to an extent of 888 sq.ft. The value of the land alone is not furnished. Hence, this sale is also discarded. As regards the sale taken place in document No.4092/2013, a perusal of the encumbrance certificate shows that though the total sale consideration is furnished as Rs.1,10,00,000/- the value of the land alone is furnished as Rs.86,00,000/- for 1210 sq.ft. which works out to Rs.7107/- per sq.ft. As instructed in G.O.Ms.No.84, Housing and Urban Development department dated 12.06.2019, the crucial date for fixation of value of the land was taken as 01.01.2014. Though the lands in S.Nos.10/1 etc., measuring a total extent of 6412 sq.meters (equivalent to 69019 sq.ft.), all the land are not similar. The guidance value of one portion of the land was fixed as Rs.3500/- per sq.ft. and for the other portion of the land the guideline value was fixed at Rs.4500/- per sq.ft. The value of the land which were having a guideline value of Rs.3500/- per sq.ft. was fixed as 3743/- per sq.ft. and the value of the lands which were having a guideline value of Rs.4500/- were fixed as Rs.4500/- per sq.ft. The aforesaid value were adopted only in respect of the land owners of an extent of 3119.94 sq.metres of land who obtained orders from the court for additional compensation. The said draft award was approved by the Government in G.O.Ms.No.39, Housing and Urban Development Department dated 26.02.2020. The said award No.1/2019 dated 16.03.2020 was pronounced by the Special Tahsildar, Land Acquisition on 15.03.2020. The contention of the petitioner that the said Adambakkam Village was not included within the Corporation of Chennai as on 01.01.2014 is not correct. In 2011 itself, the jurisdiction of Chennai Corporation was expanded from 174 sq.kilo metres to 426 sq.kilo metres dividing the Greater Chennai Corporation into three regions (i.e. North, South and Central Regions, which cover 200 wards). The multiplication factor of 1.25 of the market value of the land and the value of assets cannot be applied in arriving the compensation as claimed by the claimant. The building value was arrived at by the competent authority of the Public Works Department. The contention of the claimant that the value of the building works out to Rs.1400/- per sq.ft. is not correct. The Additional market value has been calculated as per rules and Government orders in force as of now. As per the Government orders in force as of now, the land owners are not entitled for any interest for the stay period. The District Collector, Chennai had already been addressed to offer the remarks on the claim of the land owner for additional fund at 75% alleging that the land acquisition proceedings were initiated under urgency provision. The compensation fell due to the claimant has been arrived at as per Government orders in force as of now. Hence, prays to pass appropriate orders.

5. The point for consideration is,

1) Whether the Final Award passed by the Land Acquisition Officer dated 16.3.2020 is fair and just?

2) Whether the claimant is entitled to get enhanced compensation?

3) To what other relief?

6. On the side of the claimant, Mr. R. Suresh has examined himself as PW1 and the documents Ex.P1 to Ex.P9 were marked through him. On the side of the referring authorities, Mr. Chandrasekharan, Spl. Tahsildar, MRTS - Phase-II Extension, CMDA Building, Egmore, Chennaiu - 8 has examined himself as RW1 and Ex.R1 to R8 were marked on their side and also Ex.P10 was marked during the cross examination of RW1.

7. <u>Point Nos.1 to 3:</u>

Originally, the land belongs to the claimant was acquired under the Land Acquisition Act 1 of 1984. Subsequently, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (30 of 2013) (hereinafter called as "New Act") came into force on 1.1.2014 and as per Sec.114(1) of the New Act, the Land Acquisition Act, 1894 got repealed.

8. The learned counsel for the claimant has argued that as per Sec.24(1)(a) of the New Act, the market value of the land as on 1.1.2014 has to be taken for calculating the compensation and not the guideline value and the same has been clearly established by Clarification Note/Ex.P8 issued by the Government of India, Department of Land Resources, Ministry of Rural Development. The Hon'ble High Court of Madras vide order dated 5.3.2019 in W.P.No.347/2019 batch cases has observed that the reference date for calculating the market value under Sec.24(1)(a) of the Act 30 of 2013 shall be 1.1.2014. But

the land value was fixed at Rs.3,743/- per sq.ft. by the Commissioner of Land Administration arbitrarily based on the guideline value and no data Sale Deeds were provided and the Annexure was also not attached with Ex.R7, which is in violation of the Act as well as the dictum of the Apex Court. As per Ex.P6 and Ex.P7/Sale Deeds registered at the SRO, Alandur for Adambakkam Village within 400 metres are between Rs.7000/- and Rs.8000/- per sq.ft. As per Ex.P6 Sale Deed dated 14.11.2013, the value of the said land was registered at Rs.7,107/- per sq.ft., As per Ex.P7 Sale Deed dated 30.10.2014, the value of the land was registered at Rs.8,000/- per sq.ft. As per Sale Deed in Doc.No.3114/2023, dated 26.8.2013, the land was registered at the value of Rs.9,575/- per sq.ft. Hence, the market value of the land as on 1.1.2014 is to be considered as Rs.9000/- per sq.ft. and the said amount has to be calculated u/s.27 of the Act for determination of compensation. Further, the learned counsel for the claimant argued that his property was acquired by the authorities as per notification u/s.4(1) of the Land Acquisition Act 1894 vide G.O.Ms.No.34. dated 11.2.2011 by invoking Sec.17(4) Urgency Clause dispensing with enquiry u/s.5(A) and the same was accepted by RW1 in his cross examination. The Hon'ble High Court of Madras while quashing the interim Award dated 15.9.2014, has observed in the Common Order dated 5.8.2015 in W.P.Nos.27550 of 2014 (batch cases) that before taking possession, the Collector including Deputy Collector and any other officer specifically designated by the Government to perform the functions of the Collector defined u/s.3(g) of the new Act is bound to follow Sec.40(3) of the New Act and thereafter, he is under mandate to follow Sec.40(5) and other provisions relating to rehabilitation and resettlement. The referring authorities have taken the possession of the claimant's property and passed the interim award tendering 80% of the compensation determined under the Old Act, by following Sec.40(3) of the New Act. However, the respondent authorities have failed to follow Sec.40(5) of the New Act to pay 75% of the additional Compensation as determined u/s.27. The multiplication factor prescribed under Section 26(2) of the Act has not been properly applied. As on 01.01.2014, the Adambakkam Village was not included within the limits of Greater Chennai Corporation and hence the multiplication factor of 1.25 has to be applied in arriving at the compensation for land which has not been done in the case of claimant. The solatium should be equivalent to the multiplication factor which is 1.25 of the market value of the land and value of assets. Hence, prays to enhance the compensation by fixing the market value of the land at Rs.9000/- per sq.ft and also to pay 75% additional compensation u/s.40(5) of the New Act.

9. On the other hand, the learned CGP appearing for the referring authorities argued that as per the direction of the Hon'ble Supreme Court of India, the base date for fixing the land value was taken as 1.1.2014 (i.e.) the date of commencement of Act 30 of 2013. As per G.O.Ms.No.84, dated 12.6.2019, the guideline value for the acquired lands were fixed as Rs.3,500/- and Rs.4,500/- and based on which, the value of the claimant's property was fixed at Rs.3,743/- and the final award was passed by the 2nd respondent in Award No.1/2019, dated 16.3.2020. Ex.P6 Sale Deed had taken place in respect of a flat and the land value per sq.ft works out to Rs.7,107/- alone and the property is not situated nearer to the land acquired. Ex.P7 Sale Deed was taken place in the month of October 2014, after commencement of the new Act. Hence, both the documents cannot be taken into consideration for fixing the value of the land. Therefore, the claim of Rs.9000/- per sq.ft. is not at all maintainable. Additional market value has been calculated as per rules and government orders in force as of now. The compensation awarded for acquiring the Claimant’s land is a fair compensation. Hence, prays to dismiss the exorbitant claim of the claimant.

10. On perusal of Ex.P1/Tamil Nadu Government Gazette in T.N.G.O.Ms.54, dated 11.2.2011 it is seen that for acquisition of lands under Adambakkam Village, Alandur Taluk & Town, Kancheepuram District in S.Nos.10/2, 39 etc., measuring an extent of 69019 sq.ft. for the purpose of implementation of MRTS Phase II Extension Scheme, notification was issued by invoking urgency clause u/s.17(4)(1) of the Land Acquisition Act 1894 by dispensing with enquiry under Sec.5(A). The said proposal was declared u/s.6 vide G.O.Ms.No.222, dated 11.10.2012/Ex.P2. The claimant is the owner of the flat with land measuring 318.64 sq.ft. out of total UDS 1851 sq.ft. with superstructure measuring 637 sq.ft. situated at T.S.No.40/2 (part), Ward E, Block No.8, Adambakkam Village, Thillai Ganga Nagar, 3rd Street, Chennai 600 061 and the same has been acquired for the above said scheme by the referring authorities. Initially, the 2nd respondent has passed the Interim Award No.5/2014, dated 15.9.2014 by fixing the value of the land at Rs.2,273/- per sq.ft.

under the provisions of the Central Act 1894 and accordingly notices were issued to the land owners. Meanwhile, the New Act, namely Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 came into force on 1.1.2014 and as per Sec.114(1), the Land Acquisition Act, 1894 was repealed. However, in terms of Sec.114(2) of the new Act, land acquisition proceedings already initiated under the old Act by invoking emergency provision is saved.

11. As against the interim award, the claimant and others have preferred writ petitions in W.P.Nos.27550 of 2014 etc., batch cases and the Hon'ble High Court of Madras partly allowed the said cases by a common order dated 5.8.2015 and quashed the said interim award dated 15.9.2014 and the notices dated 18.9.2014 and directed the respondents therein to follow Sec.40(3) of the Act 30 of 2013 and tender interim compensation to the land owners and also to follow the other provisions of the said Act as could be seen from Ex.P9 and Ex.R1. In pursuance of the directions of the Hon'ble High Court of Madras, the Government vide G.O.Ms.No.152, Housing and Urban Development (UD3(2)) Department dated 12.12.2015 issued direction for payment of interim compensation and the referring authorities have passed the revised interim Award No.1/2016, dated 20.9.2016 as could be seen from the common judgment of the Hon'ble High Court of Madras, dated 5.3.2019 in W.A.No.347 of 2019 etc. (batch cases)/Ex.R4. As against the revised interim awards, the claimant and others have preferred writ petitions in W.P.No.37498 of 2016, etc.,(batch cases) and the same were dismissed by the Hon'ble High Court of Madras on 21.12.2018 with direction to file a petition u/s.64 of the Act before the concerned authorities and the order copy has been marked as Ex.R3. As against which, the claimant and others have preferred writ appeals in W.A.No.347 of 2019 etc. (batch cases) and the same were also dismissed confirming the order passed in the writ petitions and directed the authorities to conduct the enquiry and to make payment of compensation to the appellants and the receipt of the compensation is without prejudice to their right to seek reference for enhanced compensation and it is also ordered that on payment of the award, the appellants shall vacate and hand over vacant possession of the property within 4 weeks. The common judgment in W.A.No.347 of 2019 etc., is marked as Ex.R4. In pursuance of the said order, enquiry was conducted and as per the proceedings of the Addl. Secretary dated 3.8.2019/Ex.R7, the land value has been

determined as Rs.3,743/- for the land having guideline value at Rs.3,500/- and at Rs.4,500/- for the land having guideline value at Rs.4,500/-. Accordingly, the Tamil Nadu Government has issued Gazette publication in T.N. G.O.Ms.No.84, dated 12.6.2019/Ex.R5 based on the guideline value for the lands acquired by the referring authorities as on 1.1.2014 at Rs.4,500/- and Rs.3,500/- and on adding 100% Solatium for land, buildings and trees and adding 12% Additional market value for land per year for 5 years, ordered to pay enhanced compensation to the land owners amounting to Rs.51.71 Crore approximately. In accordance with the said G.O., the 2nd respondent has passed the final Award No.1/2019, dated 16.3.2020.

12. In the case on hand, the possession of the claimant's property was handed over to the authorities. The main contention of the claimant is that the market rate has been arrived in respect of the claimant's land at Rs.3743/- per sq.ft., in an arbitrary manner, whereas for other land owners, it was fixed at Rs.4500/- per sq.ft., though the lands acquired are situated within the radius of 400 metres. The prevailing market rate as on 01.01.2014 within the vicinity was more than Rs.9,000/- per sq.ft. as the lands acquired were very nearer to 100 feet road connecting Velachery and G.S.T. Road nearer to Pazhavanthangal Railway Station which was fully developed with shops etc. Though the claimant has claimed the land value at Rs.9,000/- based on the Doc.No.3114/2023, dated 26.8.2013, wherein the land was registered at the value of Rs.9,575/- per sq.ft., no document has been furnished before this court for perusal. Instead, the claimant has furnished two sale Deeds in Ex.P6 and P7 alone. As per Ex.P6 Sale Deed dated 14.11.2013, the value of the said land has been mentioned as Rs.7,107/- per sq.ft., As per Ex.P7 Sale Deed dated 30.10.2014, the value of the land was registered at Rs.8000/- per sq.ft. The learned CGP has raised serious objection stating that the sale in Ex.P6 is in respect of a land and building and the land value per sq.ft works out to only Rs.7107/- and the property is not situated nearer to the land acquired and Ex.P7 Sale Deed was taken place in the month of October 2014, after commencement of the new Act. Hence, both the documents cannot be taken into consideration for fixing the value of the land and raised serious objection.

13. As per Sec.26(1)(b) of the RFCTLARR Act 2013, whiling assessing and determining the market value of the land, the Collector may adopt "the average sale price for

similar type of lands situated in the nearest village or nearest vicinity area", provided that the date for determination of market value shall be the date on which the notification has been issued under Sec.11. However, in the present case, the proceedings for acquisition of land was initiated under the Land Acquisition Act, 1894 and interim award was passed. However, the New Act, namely Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 came into force on 1.1.2014. As per Sec.114(1), the Land Acquisition Act 1894 was repealed and as per Sec.114(2), land acquisition proceedings already initiated under the old Act by invoking emergency provision is saved. As discussed earlier, as per the order of the Hon'ble High Court of Madras, direction was given to the land acquisition authorities to take the date as 1.1.2014 for calculating the market value u/s.24(1)(a) of the New Act 30 of 2013. Subsequently, the same was clarified by the Department of Land Resources, Government of India, Dated 26.10.2015/Ex.P8. The learned CGP submits that in pursuance of the order of the Hon'ble High Court, Madras as well as the clarification/Ex.P8, the Tamil Nadu Government has issued Ex.R5/G.O.Ms.No.84, dated 12.6.2019 fixing the land value on 1.1.2014 at Rs.4,500/- and Rs.3,500/-. Based on the said GO, the value of the land acquired from the claimant was fixed at Rs.3,743/- and on adding 100% Solatium for land, buildings and trees and adding 12% Additional market value for land per year for 5 years, final award was passed and hence there is no irregularity and the Award is in order. As rightly contended by the learned CGP, Ex.P7 Sale deed was executed on 30.10.2014 after commencement of Act 30 of 2013 and hence the same cannot be taken into consideration for determining the market value. The learned CGP also raised objection that the land in Ex.P6 sale deed is not situated within 400 meters of the acquired land and the acquired land is not a commercial area. Whereas, Ex.P6 Sale Deed dated 14.11.2013 is in respect of the house and ground bearing Plot No.12(Northern portion) in Bharathidasan Nagar, Bharathidasan 2nd Street, Adambakkam, Chennai 600 088, measuring an extent of 1210 sq.ft. out of 2420 sq.ft. together with a house constructed thereon having a plinth area of 2120 sq.ft. in ground, first floor and 120 sq.ft. in 2nd floor comprised in S.No.278/1 to 12, T.S.No.249/9, Ward F, Block 18 situated at Adambakkam Village, Alandur Taluk, Kancheepuram District. As per Annexure-1A in Ex.P6 Sale Deed, the market value of the land measuring an extent of

1210 sq.ft. has been mentioned as Rs.86 lakhs, whereby, the rate per sq.ft. comes to Rs.7,107/- and the value of the building comes to Rs.24 lakhs. The subject property acquired from the claimant is also a flat with land measuring 318.64 sq.ft. with superstructure measuring 637 sq.ft. situated at T.S.No.40/2(part), Ward E, Block No.8, Adambakkam Village, Thillai Ganga Nagar, 3rd Street, Chennai. On perusal of the calculation Sheet of the final award, it is seen that the building value has been mentioned as Rs.5,61,297/-. Both the lands are situated in the same village and said to have situated within the radius of 400 meters from the acquired land. Though the referring authorities have denied that the sample land is not within 400 meters to the acquired land, they have not come forward to state the exact distance and the place in which, the acquired land is situated. On perusal of the deposition of RW1, during cross examination he gave the answers in affirmative that the land acquired is situated adjacent to 100 feet road and the same are situated in prime location and it is a developed area. In these circumstances, the court has come to conclusion that the acquired land is situated within 400 meters from the sample land. Further, Ex.P6 Sale Deed is a registered sale deed and it has not been objected by the referring authorities for any reason. The referring authorities also considered the registered sale deeds of the data land for calculating the market value. Under such circumstances, this court is of the view that the Ex.P6 registered Sale Deed cannot be rejected and Ex.P6 Sale Deed has to be taken into consideration for determining the market value of the land acquired. The claimants in similar cases, whose lands were acquired by the referring authorities for the purpose of MRTS moved before this court challenging the Final Award No.1/2019, dated 16.3.2020, wherein this court has fixed the value of the land at Rs.7,000/- per sq.ft., The Special Tahsildar, Mr. Chandrasekaran, examined as RW1 has deposed in his cross examination that the total extent of land acquired for the above said project is contiguous. Hence, the same value at Rs.7,000/- per sq. ft. has been fixed as market value for the land acquired in the present case also.

14. The next contention of the claimant is that though his land was acquired by invoking urgency clause, no additional compensation of 75% under Section 40(5) of the New Act for invoking urgency clause has been paid. On the other hand, learned CGP submits that the proposal is pending with the Collector. RW1 during his cross examination

has admitted that the property was acquired under urgency clause and as per Sec.40(5) of the New Act, the government is liable to pay 75% additional compensation. On perusal of the documents as discussed above, notification u/s.4(1) of the Land Acquisition Act 1894 vide G.O.Ms.No.34, dated 11.2.2011 was issued to acquire the lands including the claimant herein by invoking Sec.17(4) Urgency Clause dispensing with enquiry u/s.5(A). The Hon'ble High Court of Madras while quashing the interim Award dated 15.9.2014, has observed in the Common Order dated 5.8.2015 in W.P.Nos.27550 of 2014 (batch cases) that before taking possession, the Collector including the Deputy Collector and any other officers specifically designated by the Government to perform the functions of the Collector defined u/s.3(g) of the new Act is bound to follow Sec.40(3) of the new Act and thereafter, he is under mandate to follow Sec.40(5) and other provisions relating to rehabilitation and resettlement. The referring authorities have taken the possession of the claimant's property in the month of December 2014 and passed the interim award tendering 80% of the compensation determined under the Old Act, by following Sec.40(3) of the New Act. However, the respondent authorities have failed to follow Sec.40(5) of the New Act to pay 75% of the additional Compensation as determined u/s. 27. It is not the contention of the referring authorities that the claimant is not entitled for 75% additional compensation for invoking the urgency clause. Therefore, the court comes to a conclusion that the claimant is entitled for 75% additional compensation u/s.40(5) of the Act. Thus, this court is of the view that the Final Award passed by the Land Acquisition Officer dated 16.3.2020 is not fair and just and the claimant is entitled for enhanced compensation.

15. The next contention of the claimant is that the multiplication factor prescribed under Section 26(2) of the Act has not been properly applied. As on 01.01.2014, the Adambakkam Village was not included within the limits of Greater Chennai Corporation and hence the multiplication factor of 1.25 has to be applied in arriving at the compensation for the acquired land. In support of his contention, the learned counsel for the claimant has furnished the G.O.(Ms.)No.01, dated 4.1.2018 issued by Revenue and Disaster Management Department, Revenue Administration Wing, [RA 1(1)] Section, Government of Tamil Nadu, which has been marked as Ex.P10. On the other hand, learned CGP submits that in the year 2011 itself, the jurisdiction of Chennai Corporation was expanded from 174 sq.kilometres to

426 sq.kilo metres dividing the Greater Chennai Corporation into three regions (i.e. North, South and Central Regions, which cover 200 wards) and therefore, the multiplication factor of 1.25 of the market value of the land and the value of assets cannot be applied in arriving the compensation as claimed by the claimant. On perusal of Ex.P10/G.O.(Ms.)No.01, dated 4.1.2018 issued by the Revenue Department of Government of Tamil Nadu, it is seen that the in the year 2011 itself, the Chennai Corporation was expanded by including 9 Municipalities, 8 Town Panchayats, 25 Village Panchayats from Kancheepuram and Thiruvallur Districts in order to facilitate ease of access to government services to the public and orders have been issued expanding the Chennai District with jurisdiction that is co-terminus with that of Greater Chennai Corporation by adding certain villages of Sholinganallur and Alandur Taluk of Kancheepuram District, Madhuravoyal, Ambattur, Madhavaram, Thiruvotriyur and Ponneri Taluk of Thiruvallur. Therefore, as rightly argued by the learned CGP, the Adambakkam Village was included within the limits of Greater Chennai Corporation in the year 2011 itself and therefore, the multiplication factor of 1.25 is not applicable to the case on hand and therefore, the claimant is not entitled to the further claim of solatium equivalent to the multiplication factor of 1.25.

16. Though the claimant has objected the value of the building arrived in the final award stating that the building was well maintained and the value would be more than Rs.1,400/-, no document has been filed to prove his contention. On the other hand, the learned CGP submits that the building value was arrived at by the competent authority of the Public Works Department and the same is in order. On perusal of the documents it is seen that it is an apartment consists of 6 flats with total UDS 1851 sq.ft., out of which, the petitioner was the owner of the flat with land measuring 318.64 sq.ft. with a superstructure measuring 637 sq.ft.. In the final award, the value of the building is mentioned as Rs.5,61,297/-. The claimant has not filed any document to show the nature of building, age of the building etc., Without any documentary evidence, the claim made by the claimant that the value of the building was more than Rs.1,400/- per sq.ft. is not acceptable.

17. From the above discussions, the claimant is entitled for enhanced compensation at the value of Rs.7,000/- per sq.ft. for the land acquired with 75% additional compensation u/s.40(5) of the Act in addition to the cost of the structure and trees as mentioned in the final

award along with 100% Solatium and additional market value at 12% on the above said enhanced compensation from the date of 1.1.2014 till this date after deducting the interim award already paid to the claimant. The claimant is entitled for the interest at the rate of 9% p.a. for one year from the date of taking possession and thereafter at the rate of 12% interest to till date and also interest at the rate of 15% p.a. on the unpaid excess part of the excess compensation till the date of payment. Points are answered in favour of the claimant.

18. In the result, this LAOP.No.28/2022 is allowed with costs. The claimant is entitled for enhanced compensation at the value of Rs.7,000/- per sq.ft. for the land acquired with 75% additional compensation u/s.40(5) of the Act in addition to the cost of the structure and trees as mentioned in the final award along with 100% Solatium and additional market value at 12% on the above said enhanced compensation from the date of 1.1.2014 till this date after deducting the interim award already paid to the claimant. The claimant is entitled for the interest at the rate of 9% p.a. for one year from the date of taking possession and thereafter at the rate of 12% interest to till date and also interest at the rate of 15% p.a. on the unpaid excess part of the excess compensation till the date of payment.

Dictated to the steno-typist directly, typed by her, corrected and pronounced by me in the open court, this the 30th day of August 2024.

Sd. XXXXX
Principal Judge.

Claimant's side Witness:
PW1 -- Mr. R. Suresh
Claimant's side Exhibits:

Exhibits	Date	Description
Ex P1	11.02.2011	Notification u/s.4(1) of the Land Acquisition Act 1894 was published in the Tamil Nadu Government Gazette No.54 to acquire the land under Sec. 17(1) of the said Act as per G.O.(Ms.)No.34, dated 11.02.2011.
Ex P2	11.10.2012	Notification/Declaration u/s.6 of the Land Acquisition Act 1894 published in the Tamil Nadu Government Gazette No.288 as per G.O.(Ms.)No.222, dated 11.10.2012.
Ex P3	16.03.2020	Final Award No.1/2019 passed by the 2nd respondent herein.
Ex.P4	--	Master Plan for the Ward E, Adambakkam Village.
Ex.P5	--	Sketch for Ward E Adambakkam Vilalge.

Ex P6	14.11.2013	Certified copy of the Sale Deed executed by one Mr. L.N. Shivakumar and his wife in favour of one Mrs. Gayathri Srinivasan and her husband in respect of the property bearing Plot No.12 in Bharathidasan Nagar, Bharathidasan 2nd Street, Adambakkam, Chennai - 600 008.
Ex P7	30.10.2014	Certified copy of the Sale Deed executed by one Mrs. R. Sangeetha in favour of one Mr. Anand Gopalakrishnan and his wife in respect of the property in Plot No.2, First Main Road, Thillai Ganga Nagar, Nanganallu, Chennai - 61.
Ex P8	26.10.2015	Copy of the Letter in D.O.No.13013/01/2014-LRD(Pt.) issued by the Secretary, Department of Land Resources Ministry of Rural Development, Government of India
Ex.P9	05.08.2015	Copy of the Common Order of the Hon'ble High Court of Madras in W.P.Nos.27550 to 27553/2014 and 30173 to 30177/2014 and 39/2015, 150/2015, 993/2015 and 1524/2015 and M.P.Nos.1, 1, 1 and 1 of 2014 and M.P.Nos.1, 1, 1 and 2, 2 of 2015.
Ex.P10	04.01.2018	G.O.(Ms.)No.01, dated 4.1.2018 issued by Revenue and Disaster Management Department, Revenue Administration Wing, [RA 1(1)] Section, Government of Tamil Nadu.

<u>Witness on the side of the referring Authorities:</u>
RW1 -- Mr. T. Chandrasekharan

<u>Documents on the side of the referring Authorities:</u>

Exhibits	Date	Description
Ex R1	05.08.2015	Web Copy of the Common Order of the Hon'ble High Court of Madras in W.P.Nos.27550 to 27553/2014 and 30173 to 30177/2014 and 39/2015, 150/2015, 993/2015 and 1524/2015 and M.P.Nos.1, 1, 1 and 1 of 2014 and M.P.Nos.1, 1, 1 and 2, 2 of 2015.
Ex R2	08.08.2016	Proceedings of the Addl. Chief Secretary and Commissioner of Land Administration, Chepauk, Chennai - 5 in S2/21309/2015.
Ex R3	04.10.2018	Copy of the Common Order of the Hon'ble High Court of Madras in W.P.Nos.37498 to 37501, 43809 to 43813 of 2016, W.P.Nos.1661 to 1665 of 2017, W.P.Nos.6223 of 2017 and W.P.No.1730 of 2017 and other W.M.P.Nos.
Ex R4	05.03.2019	Web Copy of Common Judgment of the Hon'ble High Court of Madras in W.A.Nos.347, 349 and 350 to 352 of 2019 and CMP.Nos.3437, 3440, 3453, 3454, 3459 to 3463 and 3467 of 2019.
Ex R5	12.06.2019	G.O.(Ms).No.84 of Housing and Urban Development [UD3(2)] Department, Government of Tamil Nadu.

Ex.R6	19.06.2019	Opinion No.78/AGVN/2019 given by the Advocate General of Tamil Nadu to the District Collector, Chennai.
Ex.R7	03.08.2019	Proceedings of the Addl. Chief Secretary and Commissioner of Land Administration, Chepauk, Chennai - 5 in Proc.No.M1/25443/2017.
Ex.R8	16.03.2020	Final Award No.1/2019 passed by the 2nd respondent herein.

Sd. XXXXX
Principal Judge.