IN THE COURT OF THE PRINCIPAL JUDGE,

CITY CIVIL COURT, CHENNAI

Present : **Thiru. S. Karthikeyan, M.A., M.L., M.Sc., P.G.D.C.F.Sc., Principal Judge**

Thursday, the 5th day of December 2024

**L.A.O.P.No.39/2022**
(TNCH01-030449-2021)

1. G. Sakthivel
2. G. Kannan
3. G. Sankar
4. G. Moorthy ... Claimants

..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 came up on 06.11.2024 before this court for final hearing in the presence of M/s. A. E. Ravi Chandran, N. Anbazhagan, D. Vishnu Varadhan, the Counsel for the Claimants and of City Government Pleader, Counsel for the Referring Authorities and upon hearing the arguments on the side of the claimants and on perusal of the 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 reference is made by the referring authorities under Sec.64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act 2013 regarding acquisition of land measuring 1978.638 sq.ft. with superstructure measuring 1600 sq.ft., situated at T.S.No.3/8 (Part), Ward E, Block No.9, Adambakkam Village, Thillai Ganga Nagar, $35^{th}$ Street, Chennai - 600 061, erstwhile Kancheepuram District for the purpose of implementation of Mass Rapid Transit System Phase- II Extension of Railway project from Velachery to St. Thomas Mount.

2. The Circumstances which leads to the present reference is as follows:

The Government proposed to acquire land in Adambakkam Village, Alandur Taluk, Chennai District, erstwhile Kancheepuram District for the purpose of implementation of Mass Rapid Transit System Phase- II Extension of Railway project from Velachery to St. Thomas Mount and issued Section 4(1) Notification vide G.O.Ms.No.34, dated 11.02.2011 Section 4(1) notification under the Land Acquisition Act, 1894. The said proceedings were challenged before the Hon'ble High Court and the same went upto Supreme Court and ultimately, the land acquisition proceedings were upheld.

In the meantime, the Hon'ble High Court, Madras by its order dated 05.08.2015 in W.P.Nos. 27550 to 27553 of 2014 etc., ordered to pay the interim compensation to the land owners at 80% of the amount arrived at by adding the land value estimated by the land acquisition officer for passing interim Award along with 100% solatium, compensation towards structure and trees as per the assessment made by the competent authority. Accordingly, the District Collector, Kancheepuram had sent the valuation proposal for a total extent of 69019 sq.ft. of lands in S.No.10/2 etc., in Adambakkam Village and the same was approved in Commissioner of Land Administration's Office Proceedings No.S2/21309/2015, dated 08.08.2016. The land value was assessed at Rs.1,738/- per sq.ft. (for S.No.28) ; at Rs.1912/- per sq.ft. (for

S.No.52,66 and 73). The structure value was fixed at Rs.4,07,51,884/- and Tree value was fixed at Rs.4,78,600/-.

The District Collector, Kancheepuram based on the above value of land, structure and trees has sent the draft Interim Award proposals towards the payment of 80% compensation to the land owners in respect of S.No.10/2 etc., measuring an extent of 69019 sq.ft. in Adambakkam Village. In the draft Award proposal, the District Collector, Kancheepuram has calculated 80% of compensation to be paid to the land owners, which works out to Rs.36,77,06,717/- after imposing 100% solatium and calculating 12% additional market value upto 20.09.2016 and the same was approved in Commissioner of Land Administrations Office Proceedings No.S2/21309/2015, dated 16.09.2016.

In the meantime, some of the land owners filed writ petitions in W.P.Nos.37498 to 37501 of 2016 etc., on the file of the Hon'ble High Court of Madras. The said petitions were dismissed on 21.12.2018 by the Hon'ble High Court of Madras by its order dated 05.03.2019 and directed that "though the land owner was ultimately unsuccessful before the Hon'ble Supreme Court,. yet the important question, which was decided by the Hon'ble Supreme Court is with regard to the reference date for calculating the market value under sec.24(1)(a) of the Act 30 of 2013 and it was held that it shall be 01.01.2014. The date should be the date to be fixed by the 3rd respondent, while passing the final Award. Further, as observed by the Hon'ble Supreme Court, the compensation should be re-determined by the Special Tahsildar(LA), MRTS in accordance with the procedure prescribed under Act 30 of 2013."

Subsequent to the said orders in the writ appeals, some of the remaining land owners (11 petitioners) have filed Review Application (Writ) Nos.7 to 11/2019 and the High Court of Madras by its order dated 12.06.2019 disposed these review petitions with a direction that are given by the Division Bench of this Court vide its orders, In W.A.Nos.347,349,350 to 352/2019 and W.A.Nos.756 to 759/2019 as extracted in Paragraph No.5 of High Court, order dated 08.03.2019. Thereafter, the Government issued orders in G.O.(Ms.) No.84, Housing and Urban Development Department, dated 12.06.2019 to implement the orders of the Hon'ble High Court of Madras, dated 05.03.2019 and also ordered to pay the enhanced compensation to the land owners which amounts to Rs.51.71 Crore approximately (i.e.) balance of the differential amount towards compensation from the project cost.

Based on the above Government Order, the District Collector, Chennai sent the valuation proposal for approval in respect of lands acquired in S.No.10/2 etc., Thereafter, after obtaining opinion from the learned Advocate General of TamilNadu, the rate was fixed at Rs.3743/- and Rs.4,500/- based on the recommendation of the District Collector, Chennai. As per G.O.(Ms.) No.29, Revenue and Disaster Management Department, dated 24.01.2019, instructions have been issued for calculation of 12% additional market value on the basic market value of land. As per the Government letter No.15319/NH2/2017-3, Highways and Minor Ports Department, dated 18.05.2018, the calculation of 12% Additional Market Value shall be calculated from the date of 4(1) Notification to the date of taken possession or date of final award passed, whichever is earlier. Based on the land value, already approved in Commissioner of Land Administrations Office Proceedings No.M1/25443/2017, dated 03.09.2019, the District Collector, Chennai has worked out the total amount for an extent of 3119.94 sq.mt to the tune of Rs.21,66,14,340/-.

Based on the order of the Hon'ble High Court and the instructions of the Government, the Final Award amount was arrived at Rs.39,19,83,042/- and after deducting the interim compensation of Rs.17,53,68,702/- already deposited, the balance amount arrived at Rs.21,66,14,340/- and approval was obtained. Based on the said approval, the Special Tahsildar(L.A.) has passed Final Award No.1/2019 on 16.03.2020 for the land acquired for the purpose MRTS Phase II Extension Scheme.

Aggrieved by the said award, the claimants herein have made written submission seeking enhanced compensation for the acquisition of his land measuring an extent of 1270 sq.ft. in T.S.No.48 of Adambakkam Village, Alandur Taluk, Chennai District.

3. In the reference, the land owner/claimants have filed their claim statement as follows:

The claimants herein were the owner of the land measuring 1978.638 sq.ft. with superstructure measuring 1600 sq.ft., situated at T.S.No.3/8 (Part), Ward E, Block No.9, Adambakkam Village, Thillai Ganga Nagar, 35th Street, Chennai - 600 061 and the same was acquired by the Land Acquisition Officer for the purpose of Mass Rapid Transit System, Phase-II Extension and a compensation of Rs.2,28,71,510.03 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 claimants 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 claimants' 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 claimants. 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 in view of the acquisition, reasonable expenses incidental to such change, has not been factored in arriving the compensation. The claimants reserves their right to raise additional grounds and file necessary additional documents to prove his case. Therefore, it is prayed 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. <u>Brief averments made in the counter statement filed by the 2nd respondent adopted by the 1st respondent is as follows:</u>

The claimants herein were the owner of the land measuring 1978.638 sq.ft. with superstructure measuring 1600 sq.ft., situated at T.S.No.3/8 (Part), Ward E, Block No.9, Adambakkam Village, Thillai Ganga Nagar, 35th Street, Chennai - 600 061 The said land was acquired for MRTS, Phase-II Extension Scheme and a compensation to the tune of Rs.2,28,71,510.03 was awarded and the same was paid to the claimants 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 claimants submits that the market rate has been arrived in respect of the claimants' 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 claimants 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 herself admits that the award was passed in Award No.1/2019 on 16.03.2020 and a sum of Rs.2,28,71,510.03 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 claimants 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 claimants. The building value was arrived at by the competent authority of the Public Works Department. The contention of the claimants that the value of the building works out to Rs.1400/- per sq.ft. is not correct. The letter in D.O.No.13013/01/2014-LRD(Pt)dated 26.10.2015 issued by the Joint Secretary, Department of Land Resources, Ministry of Rural Development, Government of India, clarified the reference date for calculation of market value u/s.24(1)(a) as 01.01.2014. Therefore, 12% additional market value will be calculated only from 01.01.2014 to the date of passing of Award. 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 compensation in this case is worked out as per the orders of the Hon'ble High Court, dated 08.03.2019 in W.A.Nos.956 to 959 of 2019. The compensation fixed by the Land Acquisition Officer is in order. Hence, prays to pass appropriate orders.

5. On the side of the claimants, 2nd claimant namely Mr. G. Kannan, was 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.

6. The point for consideration is,

Whether the claimants are entitled to enhanced compensation as prayed for?

7. Point:

The learned counsel appearing for the claimants, in his oral submissions, submitted as follows:

The claimants herein were the owner of the land measuring 1978.638 sq.ft. with superstructure measuring 1600 sq.ft., situated at T.S.No.3/8 (Part), Ward E, Block No.9, Adambakkam Village, Thillai Ganga Nagar, 35th Street, Chennai - 600061 and the same was acquired by the Land Acquisition Officer for the purpose of Mass Rapid Transit System, Phase-II Extension and a compensation of Rs.2,28,71,510.03 was awarded and the same was paid after adjusting the interim award by order dated 22.12.2020. The compensation awarded is was much lower than the actual market value. As per Sec.24(1)(a) of the New Act, the market value of the land as on 01.01.2014 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 05.03.2019 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 01.01.2014. 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 26.08.2013, the land was registered at the value of Rs.9,575/- per sq.ft. Hence, the market value of the land as on 01.01.2014 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 claimants 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 11.02.2011 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 05.08.2015 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 claimants' 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 claimants. 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.

8. On the other hand, the learned CGP appearing for the referring authorities, in his oral and written submissions, submitted as follows:

The claimants herein were the owner of the property under acquisition and a compensation to the tune of Rs.2,28,71,510.03 was awarded and the same was paid to the claimants 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. According to the claimants, the market rate arrived in respect of the claimants' 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 claimants 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 registered Sale Deeds in 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. 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 that the documents bearing Document Nos.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.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. In the absence of any evidence regarding the actual value of the building, it is not feasible to accept the land value mechanically stated in Annexure-A and therefore, this sale is also discarded.

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 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 claimants.

The building value was arrived at by the competent authority of the Public Works Department. The letter in D.O.No.13013/01/2014-LRD(Pt)dated 26.10.2015 issued by the Joint Secretary, Department of Land Resources, Ministry of Rural Development, Government of India, clarified the reference date for calculation of market value u/s.24(1)(a) as 01.01.2014. Therefore, 12% additional market value will be calculated only from 01.01.2014 to the date of passing of Award. 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. Hence, prays to dismiss the exorbitant claim of the claimants.

9. It is an admitted fact that the claimants' land measuring 1978.638 sq.ft. with superstructure measuring 1600 sq.ft., situated at T.S.No.3/8 (Part), Ward E, Block No.9, Adambakkam Village, Thillai Ganga Nagar, 35$^{th}$ Street, Chennai - 600 061 was acquired for the purpose of MRTS Phase II Extension Scheme. Though 4(1) notification in respect of the said acquisition was made under the old Act, no final award was passed till the commencement of the New Act of 30 of 2013 (RFCTLARR Act 2013). On and after the commencement of the New Act, all the land acquisition proceedings shall continue under the New Act. Therefore, admittedly Final Award No.1/2019 was passed u/s.24(1)(a) of Act 30/2013 on 16.03.2020 and thereby a sum of Rs.2,80,71,520.03 was awarded in favour of the claimants.

10. It is also an admitted fact that the acquisition proceedings were challenged by the land owners including the claimants herein and the same were went up to Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India though confirmed the land acquisition proceedings, specifically stated that the date for

fixation of market value is as on 01.01.2014. Therefore, according to the learned counsel for the claimants, the market value of land fixed at Rs.3,743/- per sq.ft. fixed by the government is far below the prevailing rate of Rs.9,000/- per. Sq.ft. Though the claimant in his claim statement has claimed the land value at Rs.9,000/- based on Doc.No.3114/2023, dated 26.08.2013, the said document was not produced before this court to substantiate the said claim. In stead, the claimants herein relied on the sale deeds within the vicinity to substantiate the higher market value, which are marked as Ex.P6 and Ex.P7.

11. On careful perusal of the said sale deeds, it is found that Ex.P6 Sale Deed was executed on 14.11.2013, wherein the property situated at Bharathidasan Nagar, Bharathidasan 2nd Street, Adambakkam, Chennai 600 088, measuring an extent of 1210 sq.ft. was sold for a total sale consideration of Rs.1,10,00,000/-. However, it includes the value of the building constructed thereon having plinth area of 1000 sq.ft. in ground, 1000 sq.ft. in the first floor and 120 sq.ft. in the 2nd floor with all fixtures and fittings, electrical installations, TNEB Service Connection, Well, Septic tank, compound walls etc., As per Annexure 1-A attached to the said Sale Deed, the value of the land is fixed at Rs.86 lakhs and the value of the building is fixed at Rs.24 lakhs. If we calculate the land value per sq.ft., it comes to Rs.7,107/- per sq.ft. approx. The said fact is admitted by the learned City Government Pleader also.

12. Likewise, as per Ex.P7 Sale Deed, it is found that an undivided 530 sq.ft. share of land right out of 2940 sq.ft. in Plot No.2, First Main Road, Thillai Ganga Nagar, Nanganallur, Chennai - 600 061 comprised in T.S.No.7, Block No.10, Ward No.E, S.No.49/2 Part situated at Adambakkam Village was sold for a sale consideration of Rs.67,03,000/-. As per Ex.P7, the land is valued at Rs.42,40,000/- and the building is valued at Rs.24,63,000/-. If we calculate the land value per sq.ft., it comes to Rs.8,000 per sq.ft. Therefore, according to the counsel for the claimants, at least a sum of Rs.8,000/- is to be fixed as market value.

13. On the other hand, it is contended by the learned CGP that the authority while considering the sale deeds discarded the Sale Deed in Doc.No.4416/2014 dated 30.10.2014 (marked as Ex.P7 herein) as the sale had taken place not only after the commencement of New Act, but also after the issuance of 4(1) Notification. As regards, the sale taken place with regard to Doc.No.4092/2013 (marked as Ex.P6 herein), in the absence of any evidence regarding the actual value of the building, it is not feasible to accept the land value stated in the Annexure A, mechanically. Hence, the said sale deed is also to be discarded. Though the land measuring 6412 sq. meters comprised in S.Nos.10/1 are all in the same survey number, they are not similar in nature. The guideline value of one portion of the land was fixed as Rs.3,500/- per sq.ft. and for the remaining portion of the land, the guideline value was fixed at Rs.4,500/- pe sq.ft. The value of the lands which are having a guideline value of Rs.3,500/- per sq.ft. was fixed at Rs.3,743/- per sq.ft. and the value of the lands which are having a guideline value of Rs.4,500/- were fixed at Rs.4,500/- per sq.ft. Therefore, according to learned CPP, the market value was determined after considering the necessary parameters for the same. Therefore, according to the learned CGP, the entire claim by the claimants are to be rejected.

14. Though the learned CGP has submitted that though the survey numbers are one and the same, the guideline values are two different, no material was produced before this court as to why two different guideline values were fixed for the property situated in the same survey number. While determining the market value of the property, the property is to be valued considering the neighbouring land, locational advantage and the resources available in the that land. Admittedly, no material was produced as to how, the market value was fixed in this case. It is well settled law that the guideline value and the market value are not one and the same. The guideline value is nothing but the land value fixed by the authorities for the purpose of calculating stamp duty at the time of registration of the document. However, the

market value, as repeatedly held by the Hon'ble High Court of Madras and the Apex Court, is the value fixed by the intending seller and by the intending purchaser.

15. In this case, though, S.4(1) notification was issued much earlier, there were litigations challenging the said S.4(1) notification and therefore, the land acquisition proceedings could not be completed before the commencement of the New Act. Since no final award was passed before the commencement of the new Act, the present land acquisition proceedings are to be governed under the New Act. The said position was well settled by the decision of the Hon'ble Apex Court and Hon'ble High Courts in W.P.Nos. 27550 to 27553 of 2014 etc.,

16. Further, the Hon'ble Apex Court, while approving the land acquisition proceedings has clearly stated that, the market value to be determined as on 01.01.2014. Therefore, while determining the market value, the sale which was happened near to that date is to be preferred so as to arrive right conclusion. In this case, Ex.P6/Sale Deed was registered on 14.11.2013 and Ex.P4 was registered on 30.10.2014. Ex.P7/Sale Deed was executed after the date fixed by the Hon'ble Apex Court. Whereas Ex.P6/Sale Deed is much nearer to the date fixed by the Hon'ble Apex Court. Therefore, considering the market value of the land fixed in Ex.P6, this court is of the considered view that the market value is to be arrived at Rs.7,000/- per sq.ft.

17. Apart from that it is brought to the notice of this court that the similar claimants have made claim before this court for enhancement and this court has fixed Rs.7,000/- per sq.ft. as market value. Therefore, this court is of the considered view that when the similarly placed persons were awarded a sum of Rs.7,000/- per sq.ft. as compensation, these claimants also are entitled to get the same. Accordingly, the land value is fixed at Rs.7,000/- per sq.ft.

18. It is further contended by the learned counsel for the claimants that as per Sec.26(2) of the Act, the market value shall be fixed at 1.25 times of the market value and since Ex.P6/Sale Deed reflects the true market value, the claimants have not pressed for the said claim.

19. According to the claimants, since urgency clause was invoked as per Sec.45 of the Act, 75% of the additional compensation is to be awarded. On careful perusal of the land acquisition proceedings, it is found that the land acquisition was done under the urgency clause and therefore, this court is of the considered view that this claimants are also entitled to 75% of the additional compensation u/s.45 of the Act. In respect of other claims, the claimants have not sought any enhancement. Therefore, point is answered accordingly.

20. In view of answer to the point, the compensation for the acquired land is enhanced at the rate of Rs.7,000/- per sq.ft. deducting the amount already paid to the claimants. The claimants are also entitled for 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. The claimants are also entitled for 100% Solatium and also entitled for 12% per annum towards additional market value from the date of 4(1) Notification till the actual date of taking possession of the land. The claimants are also entitled for statutory interests on such enhanced amount under Sec. 28 of the Land Acquisition Act.

21. In the result, this LAOP.No.39/2022 is allowed with costs. The claimants are 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 with interest at the rate of 9% p.a. for one year from the date of taking possession of the property and thereafter at 15% p.a. on the enhanced amount till the payment is made into the Court in addition to the solatium and additional market value referred as above. It is

needless to say that as per the decision of the Hon'ble Apex Court in Sunder Vs. Union of India reported in [2001 (7) SCC 211], the claimants is entitled to the interest at the above rates for the amount of solatium also.

Dictated to the steno-typist, transcribed and typed by her, corrected and pronounced by me in the open court, this the 5th day of December 2024.

KARTHIKEYAN SHANMUGAM Digitally signed by KARTHIKEYAN SHANMUGAM

Principal Judge.

<u>Claimants' side Witness:</u>

PW1 -- Mr. G. Kannan (2nd Claimant)

<u>Claimant's side Exhibits:</u>

| 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 Village. |
| 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 |

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| | | 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. |

Witness on the side of the referring Authorities:

RW1 -- Mr. T. Chandrasekharan

Documents on the side of the referring Authorities:

| 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. |

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| 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. |

KARTHIKEYAN SHANMUGAM

Digitally signed by KARTHIKEYAN SHANMUGAM

Principal Judge.