

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.10521-10522 OF 2011

JANNET

... APPELLANT

Versus

THE DIVISIONAL ENGINEER BHARAT SANCHAR NIGAM LIMITED
AND ANR.

... RESPONDENTS

WITH

C.A. Nos.10527-10529/2011

C.A. Nos.10523-10525/2011

C.A. No.10526/2011

O R D E R

The Court is convened through Video Conferencing.

2. Delay condoned.
3. The application for substitution is allowed.
4. The State of Tamil Nadu issued a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter, 'the Act') on 28.08.1998 for acquiring four parcels of adjoining land in Kulapuram Village, Vilavancode Taluk, Kanyakumari District, for the purpose of establishment of a Wide Band Digital Microwave Tower and Building for Microwave Communication link between Madurai and Trivandrum by Bharat Sanchar Nigam Limited ("BSNL"). The detailed description of the land, which was sought to be acquired, has been mentioned in para 5 of the impugned judgment dated 07.10.2009 passed by the Madras High Court, Madurai Bench. We do not consider it necessary to re-produce those details.

5. The Land Acquisition Officer passed the Award on 27.08.1999 awarding compensation at the rate of Rs.1100/- per cent for the acquired land. The lands owned by the appellants in the four appeals were also the subject matter of acquisition. The appellants - land owners filed references under Section 18 of the Act, which were allowed by the Land Acquisition Claims Tribunal, Kuzhithurai (hereinafter, 'the Tribunal') vide Award dated 26.03.2007 to the extent that in L.A.O.P. Nos. 13, 14 and 15 of 2000, the market value of the land was enhanced from Rs.1100/- per cent to Rs.40,000/- per cent, while in L.A.O.P. No.12 of 2000, such value was enhanced from Rs.1100/- per cent to Rs.60,000/- per cent.

6. Bharat Sanchar Nigam Limited (BSNL) challenged the aforesaid enhancement of compensation before the High Court and vide impugned judgment dated 07.10.2009, the Division Bench has reduced the compensation from Rs.40,000 and Rs.60,000/- per cent to Rs.2,000/- per cent in both LAOPs. The land owners had filed Cross Objections for enhancement of compensation, which were dismissed as a corollary.

7. There is no quarrel on the point that the Reference Court made an enormous and steep rise in compensation from Rs.1100/- per cent to Rs.40,000 and Rs.60,000/- per cent on the basis of the report of the Advocate Commissioner, who opined in the report that the acquired land had high potentiality as it was surrounded by fully developed areas. The High Court while drastically reducing the compensation from Rs.40,000 and Rs.60,000/- per cent to Rs.2,000/- per cent, has discarded the said report, holding that the

observations made by the Advocate Commissioner are based on hearsay statements and oral evidence ought not to have been relied upon. The High Court has placed greater emphasis on the documentary evidence.

8. So far as the documentary evidence is concerned, there is a Sale Deed (Exhibit R-2), dated 01.02.1996, on record which is prior to issuance of Section 4 Notification on 28.08.1998. As per the said Sale Deed, the value of the land in 1996 was Rs.1100/- per cent. The High Court has banked upon this Sale Deed and after taking into consideration the high potentiality and its locality, has fixed the market value of the land at Rs.2,000/- per cent.

9. There were two more Sale Deeds (Exhibit C-4 and Exhibit C-5) produced by the land owners but those have been discarded simply on the ground that the same are post Section 4 Notification and one of the Sale Deeds was executed before passing of the Award.

10. It further appears that during the pendency of the appeals/cross objections before the High Court, the land owners wanted to produce two more sale deeds by way of additional evidence and both these sale instances were prior to issuance of the Section 4 Notification. Though the impugned judgment is silent with respect to this additional evidence, we are informed that the High Court had declined to take those sale deeds on record.

11. We have heard learned counsel for the appellant - land owners and learned Senior Counsel for BSNL and carefully perused the material placed on record.

12. To put it straight, we find ourselves in a conundrum with

regard to evaluation of the fair market price of the acquired land. While the Land Acquisition Officer fixed the market value at the rate of Rs.1,100/- per cent, the Land Acquisition Claims Tribunal enhanced the compensation by a wide margin by fixing Rs.40,000 and Rs.60,000/- per cent, respectively. The High Court has again severely reduced the compensation and brought it down to Rs.2,000/- per cent. Despite our best efforts, we find it quite difficult due to a lack of sufficient documents and material on record, to determine the fair and just market value of the land at the relevant time. In such circumstances, we deem it appropriate to remit the case to the Land Acquisition Claims Tribunal, Kuzhithurai to re-determine the market value of the land. Since the appellants have been able to lay their hands on further parallel examples of sales of land, it would also be in the interest of justice to permit both the parties to lead additional evidence before the Tribunal so that the fair market value of the land can be assessed.

13. For the reasons above, the Award dated 26.03.2007, passed by the Land Acquisition Claims Tribunal as well as the judgment dated 07.10.2009, passed by the Madurai Bench of the Madras High Court, are set aside and the matter is remitted to the Land Acquisition Claims Tribunal, Kuzhithurai to re-determine the market value of the land, after giving an opportunity to each party to produce additional evidence. Since the acquisition pertains to the year 1998, we direct the Tribunal to decide the matter afresh within a period of six months.

14. It is clarified that we have not expressed any opinion on the

merits of the case.

15. The appeals stand disposed of in the above terms.

16. As a result, pending interlocutory applications also stand disposed of.

.....J.
(SURYA KANT)

.....J.
(J.K. MAHESHWARI)

NEW DELHI;
MARCH 16, 2023.

Revised (For appearance only)

ITEM NO.105

COURT NO.9

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).10521-10522/2011

JANNET

Appellant(s)

VERSUS

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LIMITED AND ANR.

Respondent(s)

WITH

C.A. Nos.10527-10529/2011 (XII)

(FOR ON IA 57851/2013

FOR ON IA 7/2016

FOR CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN. ON IA
10/2016

FOR EXEMPTION FROM FILING O.T. ON IA 13/2016

IA No. 10/2016 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN.

IA No. 13/2016 - EXEMPTION FROM FILING O.T.)

C.A. No. 10523-10525/2011 (XII)C.A. No. 10526/2011 (XII)

Date : 16-03-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Appellant(s) Ms. Haripriya Padmanaban, Adv.
Mr. K. Paari Vendhan, AOR
Mr. Raghunatha Sethupathy B, Adv.
Mr. T. Mahendharan, Adv.
Ms. Priya R, Adv.
Ms. Tanya Shrivastava, Adv.
Ms. Pariksha, Adv.

Ms. Chandan Ramamurthi, AOR

For Respondent(s) Mr. R.D. Agrawala, Sr. Adv.
Mr. Rajesh Kumar, Adv.
Mr. Shushant Dogra, Adv.
Mr. Sushant Dogra, Adv.
Ms. Neelam, Adv.
Mr. Pavan Kumar, AOR

Mr. D.Kumanan, AOR

UPON hearing the counsel the Court made the following

O R D E R

The Court is convened through Video Conferencing.

Delay condoned.

The application for substitution is allowed.

The appeals stand disposed of in terms of the signed order.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed order is placed on the file)

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