

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s).6899 OF 2002

A. VEMBUSEKARANAppellant

VERSUS

SPL. TAHSILDAR, NAMAKKALRespondent

O R D E R

This appeal is directed against judgment dated 2.3.2001 by which the Division Bench of Madras High Court dismissed Appeal Suit No.149 of 1997 filed by the appellant for setting aside order dated 25.10.1993 passed by the learned Sub-Judge, Namakkal (hereinafter referred to as "the Reference Court") under Section 18 of the Land Acquisition Act.

The Government of Tamil Nadu acquired 3.50 acres of land situated in Chandrasekarapuram, Rasipuram Taluk, Namakkal District for providing house sites to Arunthathiars. The acquired land included about 2.19 acres land belonging to the appellant. By an award dated 1.3.1990, the Land Acquisition Collector fixed the market value of the land at the rate of Rs.15,667/- per acre.

Dissatisfied with the award of the Land Acquisition Collector, the appellant and other land holders

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filed applications for enhancement of the compensation. Thereupon, the Collector made reference under Section 18 of the Act. The Reference Court, after taking into consideration the oral and documentary evidence produced by the appellant, fixed the marked value of the land in survey No. 545/7 at Rs.5 per sq. ft. and of the land in survey No.546/3 at Rs.4/- per sq. ft. The relevant portions of the order passed by the Reference Court are extracted below:

"9. Ex.C1 sale deed was marked on the side of the claimant that a land in survey No. 459 was sold at Rs.18 per Sq. Ft on 18.02.1988. One Muthu who was the purchaser of the said land was examined at CW2. Sale deed dated 10.12.1987 for a sum of Rs.28,500 was filed on the side of the Government. The acquired lands at survey Nos. 545 & 546 were situate to the east of the survey No. 459, which is situate at Village Natham. But the data land in Survey No. 428/9, relied on by the Government, is situate far off from the acquired land. Therefore I hold that the compensation fixed on the basis of the value of the said land, which is situate very far away from the acquired lands, is not proper.

10.Ex.C1 sale deed of the land in survey No. 459 purchased by one Muthu on 18.12.88 has been marked on the side of the claimants. From that document it is known that 990 sq. ft. of land was purchased for Rs.14,500/-. CW2 in his evidence stated that the said land was purchased for correct price, that CW1's land is situate 3 houses away from his land, that there was only a rock previously between the land of CW1 and his land and that at present a house has been constructed in that place and that the said land was sold for Rs.15/- per Sq. Ft. As per the evidence of CW2 the land in Ex. C1 was sold at

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the correct price i.e. Rs.14.64 per Sq. Ft.

12. CW1 in his evidence stated that, his land is plotted out and sold as house plots. CW2 in his evidence stated that the acquired land is situate 3 houses away from his land and Survey No. 546 is on the eastern side of the acquired land. Therefore the contention that the acquired lands in survey Nos. 545 & 546 are near the village they can be plotted out and sold as house plots is acceptable. CW1 in his evidence stated that there is no direct road from the land to the village and that the road to the village is going in round about manner, that there are houses in between his land and the Village. Since there is no direct road to the village, that there is no plea that there are no houses built at present in survey No. 545, that the survey No. 545 is situate on the east of the village, the contention of the petitioner that the value of the said land is to be fixed at Rs.14 as per Ex. C1 is not acceptable. Since the said lands are yet to be plotted out as house plots 30% of the value is to be deducted for the development of the land. Therefore I hold that the value of the land in survey No. 545 is fixed at Rs.5/- per Sq. Ft. and the land in survey No. 546 is valued at Rs.4/- per Sq. Ft."

The appeals preferred by the appellant and some of the land holders were dismissed by the Division Bench of the High Court, which approved the view taken by the

Reference Court that sale deed Ext. C1 (erroneously described in the judgment of the Division Bench as Ext. P1) has been duly proved and the same is admissible in evidence and held that the market value of the acquired land was rightly fixed @ Rs.5/- per sq. ft. (survey No. 545/7) and

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Rs.4/- per sq. ft. (survey No.546/3). The Division Bench further held that the claimants are not entitled to interest on solatium and additional amount, but gave liberty to them to file appropriate application before the Reference Court after the decision of the larger Bench of this Court.

We have heard learned counsel for the parties and scanned the records. In our view, even though the Reference Court was justified in making deduction of 30% from the value of the land specified in Exhibit C1 because the land was required to be developed and divided into plots (house sites), there was no legal basis or justification for making further deduction of 30% from the total value of the land for the purpose of fixation of market value.

The Reference

Court should have, after making 30% deduction from the value of the land specified in Ext. C1, fixed the market value of the acquired land at Rs.10.25 per sq. ft. and accordingly awarded the compensation. The High Court did not advert to this important aspect of the matter and dismissed the appeal preferred by the appellant by assuming that as a result of 30% deduction from the value of the land specified in Ext. C1, the land holders will be entitled to compensation @ Rs.5/- per sq. ft. in respect of the land in survey No. 545/7 and Rs.4/- per sq. ft. in

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respect of land in survey No. 546/3.

Learned counsel for the respondent very fairly stated that in view of the judgment of this Court in Sunder

Vs. Union of India, reported in (2001) 7 SCC 211, the appellant is entitled to interest on solatium and enhanced compensation.

In the result, the appeal is allowed. The impugned judgment of the Division Bench of the High Court as also the order passed by the Reference Court are set aside. The market value of the land is fixed at Rs.10.25 per sq. ft. It is also declared that the appellant shall be entitled to interest on solatium and enhanced market value in terms of the judgment in Sunder vs. Union of India (supra). The State Government and the concerned authorities are directed to pay compensation to the appellant in terms of this judgment within a period of three months from the date of receipt/production of copy of this order. While making payment, the concerned authority shall be entitled to deduct the amount of compensation already paid to the appellant.

Although, some of the land holders did not challenge the order passed by the Reference Court by filing appeal under Section 54(1) of the Act and only one of them could approach this Court, in view of our conclusion that

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the appellant is entitled to get compensation @ Rs.10.25 per sq. ft., we are of the view that even those, who may not have been able to seek intervention of the High Court and this Court due to illiteracy, ignorance and financial incapacity should also get compensation at par with the appellant. Accordingly, we direct the Government of Tamil Nadu and its functionaries to pay compensation and other statutory benefits to other land holders at the same rate at which compensation etc. will be paid to the appellant herein.

The respondent i.e., Special Tehsildar, Namakkal is directed to inform other land holders that in terms of this judgment, they have become entitled to receive higher

compensation and other statutory benefits. The learned Sub-Judge, Namakkal shall also inform the land owners about their entitlement to receive higher compensation in lieu of acquisition of their land. The concerned authorities are directed to pay enhanced compensation and other statutory benefits to the appellant and other land holders through Sub-Judge, Namakkal in the form of bank drafts. The learned Sub-Judge is requested to ensure such of the land holders who do not have bank accounts are provided assistance to open bank account and the drafts made available by the concerned authority are deposited in their bank accounts.

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.....J.
(G.S. SINGHVI)

.....J.
(C.K. PRASAD)

NEW DELHI,
February 18, 2010.

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ITEM NO.102

COURT NO.12

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). 6899 OF 2002

A. VEMBUSEKARAN

Appellant (s)

VERSUS

SPL. TAHSILDAR, NAMAKKAL

Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

Date: 18/02/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE C.K. PRASAD

For Appellant(s)

Mr. Senthil Jagadeesan, Adv.
Mr. Sreekumar Panicker K., Adv.
Mr. V. Ramasubramanian, Adv.

For Respondent(s)

Mr. R. Nedumaran, Adv.

UPON hearing counsel the Court made the following

O R D E R

In terms of signed order, the appeal is allowed. The impugned judgment of the Division Bench of the High Court as also the order passed by the Reference Court are set aside. The market value of the land is fixed at Rs.10.25 per sq. ft. It is also declared that the appellant shall be entitled to interest on solatium and enhanced market value in terms of the judgment in Sunder vs. Union of India (supra). The State Government and the concerned authorities are directed to pay compensation to the appellant in terms of this judgment within a period of three months from the date of receipt/production of copy of this order. While making payment, the concerned authority shall be entitled to deduct the amount of compensation already paid to the appellant.

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Although, some of the land holders did not challenge the order passed by the Reference Court by filing appeal under Section 54(1) of the Act and only one of them could approach this Court, in view of our conclusion that the appellant is entitled to get compensation @ Rs.10.25 per sq. ft., we are of the view that even those, who may not have been able to seek intervention of the High Court and this Court due to illiteracy, ignorance and financial incapacity should also get compensation at par with the appellant. Accordingly, we direct the Government of Tamil Nadu and its functionaries to pay compensation and other statutory benefits to other land holders at the same rate at which compensation etc. will be paid to the appellant herein.

The respondent i.e., Special Tehsildar, Namakkal is directed to inform other land holders that in terms of this judgment, they have become entitled to receive higher compensation and other statutory benefits. The learned Sub-Judge, Namakkal shall also inform the land owners about their entitlement to receive higher compensation in lieu of acquisition of their land. The concerned authorities are directed to pay enhanced compensation and other statutory benefits to the appellant and other land holders through Sub-Judge, Namakkal in the form of bank drafts. The learned Sub-Judge is requested to ensure such of the land holders who do not have bank accounts are provided assistance to open bank account and the drafts made available by the concerned authority are deposited in their bank accounts.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed Order is placed on the file)