

**IN THE COURT OF THE SPECIAL SUB-ORDINATE JUDGE FOR
LAOP CASES, CUDDALORE**

**PRESENT: Tmt. N.S.Meenachandra, B.A., L.L.M.,
Special Sub Judge for LAOP Cases,
Cuddalore**

On Saturday, the 7th day of October 2017.

LA CMA. No. 1/2017

**(LACMA. No. 40/2001, on the file of Principal Sub Court, Chidambaram)
(LACMA. No. 6/2004, on the file of Additional District Court, Chidambaram)
against
(Award No. 10/98-99 (3/2000 dt 26.09.2000) of Spl. Tahsildhar(ADW),
Chidambaram)**

Rathinasabapathy

-Appellant

/Vs/

The Special Tahsildhar (ADW), Chidambaram

- Respondent

This appeal having been taken on file in LACMA. No. 40/2001 dated 05.10.2001, on the file of Principal Sub Court, Chidambaram and transferred to Additional District Court, Chidambaram as LACMA. No. 6/2004 on 27.04.2004 and later transferred to this Court and taken on file on 10.01.2017 in LACMA. No. 1/2017 and came before me for final hearing on 03.07.2017 in

the presence of Learned Advocate Thiru S.Rammohan, Advocate for Appellant and the Learned Additional Government Pleader for the respondent and after perusal of the records and having stood over under the consideration of this Court, till this date and this court on this day delivered the following:-

JUDGMENT

This appeal is made by the appellant against Award passed by the respondent herein in Award No. 10/98-99 for enhancement of fixation of market value of the land acquired belong to him at Harirajapuram village, Chidambaram Taluk, under Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act 31/1978.

02. Brief contents of the grounds of appeal:-

The appellant states that, the Award passed by the Respondent determining the compensation amount at Rs. 93, 595/- as compensation to the acquired lands. The respondent ought to have taken into consideration the acquired land as house site and is capable of raising double crop with excellent irrigation and drainage facilities. The acquired land is having fertile soil and yield will not be less than 150 kalams of paddy per acre with equal number of straw bundles. The respondent ought to have seen that 0.01 cent of land is valued in registered sale deed at Rs 6000/- even though the real market value is not less than Rs 10,000/- per acre. The appellant claims Rs 3,00,000/- as compensation. The respondent deliberately omitted from considering the guideline value fixed for the lands at Rs 8000/- per cent in the village and also sale deed dated 05.07.2000. The respondent erred in fixing Rs 500/- per cent

without any basis and also erred in seeing Tharam, soil classification as per data sale deed dated 06.04.2000, Doc No. 147/2000. The appellant seeks to fix the compensation for the acquired land at Rs 6000/- per cent and to award costs.

03. The point for consideration is whether the appellant is entitled for enhanced compensation as claimed by him?

04. The Appellant examined himself as Pw1 and marked the registration copy of the sale deed dated 30.03.1998 registered as Doc. No.129/1998 SRO, Orathur as Exp1 and the registration copy of the sale deed dated 11.04.1999 registered as Doc. No.136/1999 SRO, Orathur as Exp2. He also examined one Chandrasekaran as Pw2, one Veerapandian as Pw3 and one Saravanakumar as Pw4 and marked the registration copy of the sale deed dated 09.06.1997 registered as Doc. No.225/1997 SRO, Orathur as Exp3 and the registration copy of the sale deed dated 23.08.1999 registered as Doc. No.355/1999 SRO, Orathur as Exp4.

The respondent side examined one Murugesan, the then Special Tahsildhar(ADW), Chidambaram as Rw1.

05.

(i) At the outset, this Court finds that this Appellant has preferred this appeal seeking enhancement of compensation amount of his lands acquired by the respondent herein. He has mentioned in his appeal that the appeal is preferred as against the Award No. 10/98-99. When the records were asked from the respondent office, they have sent the Award No. 3/2000 dt 26.09.2000, which alone is the one pertaining to the lands of the appellant. There is no

mention about the description of property also by the Appellant in his memorandum of appeal. When this Court clarified the appellant and the respondent conceded that the acquired land is concerned with Award no. 3/2000 and not Award no. 10/98-99 as mentioned by the appellant in his memorandum of appeal. After a long time, the appellant has chosen to file an amendment application in I.A. No. 174/2017 and the same was allowed. But the appellant has not cared for filing amended memorandum of appeal inspite of opportunities rendered to him. Since the oral evidences were already let in and documents pertaining to the appeal were already marked, this Court passes this judgment based on the materials produced before it.

(ii) The land in R.S.No. 10/1 -0.18.0 hectares and R.S.No. 10/2-048.0 hectares of Vadaharirajapuram Village, were acquired for 20 Adidravida families under the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 (Act 31/1978). This appeal is considered for the enhanced compensation claimed by the appellant on the ground of low valuation by the Award officer. The appellant would content that the respondent ought to have taken into consideration the acquired land as house site and is capable of raising double crop with excellent irrigation and drainage facilities. The acquired land is having fertile soil and yield will not be less than 150 kalams of paddy per acre with equal number of straw bundles. The respondent ought to have seen that 0.01 cent of land is valued in registered sale deed at Rs 6000/- even though the real market value is not less than Rs 10,000/- per acre. The appellant claims Rs 3,00,000/- as compensation. The respondent deliberately omitted from considering the guideline value fixed for the lands at Rs 8000/- per cent in the village and also sale deed dated 05.07.2000. The respondent erred in fixing Rs

500/- per cent without any basis and also erred in seeing Tharam, soil classification as per data sale deed dated 06.04.2000, Doc No. 147/2000. The appellant seeks to fix the compensation for the acquired land at Rs 6000/- per cent and to award costs.

(iii) The appellant seek fixation of value for the acquired land at the rate of Rs 6000/- per cent and marked the registration copy of the sale deed dated 30.03.1998 registered as Doc. No.129/1998 SRO, Orathur; the registration copy of the sale deed dated 11.04.1999 registered as Doc. No.136/1999 SRO, Orathur; the registration copy of the sale deed dated 09.06.1997 registered as Doc. No.225/1997 SRO, Orathur and the registration copy of the sale deed dated 23.08.1999 registered as Doc. No.355/1999 SRO, Orathur. As per the Award, totally 8 sale transactions were taken into consideration by the Award Officer. Sale deed dated 06.04.2000 relating to sale in R.S.No. 17/5- 0.42cents; 17/2-0.06 cents and R.S.No. 17/3 – 0.21 cents, a total extent of 0.69 cents sold for a sum of Rs 34,500/- registered as Doc.no. 147/2000, SRO Orathur is considered to be the data sale deed.

(iv) Exp1- Sale deed dated 30.03.1998 relating to R.S.No.90/5 which shows a market value of Rs 60840/- for a total extent of 9 cents; Exp2- Sale deed dated 13.04.1999 relating to R.S.No. 194/5 an extent of 3 ½ cents sold for a market value of Rs 23, 640/-; Exp3- Sale deed dated 09.06.1997 relating to R.S.No. 90/6 an extent of 3924 sq.ft sold for a market value of Rs 5,8860/- and Exp4- Sale deed dated 23.08.1999 relating to R.S.No. 72/4-0.18 acres; R.S.No. 72/5- 0.18 acres and R.S.No. 72/6 – 0.35 acres, a total extent of 0.71 acres, sold for a market value of Rs 53,260/-. From the sale deeds Exp1 to P3, it could be

inferred that a cent of land in the acquired village was sold for an average sum of Rs 6500/- per cent. Exp4 seems to have involved with three different survey numbers and the said Exp4 and Exp2 are Nanja lands and the acquired land is punja lands. Hence, Exp2 and Exp4 cannot be considered for determining the value of the acquired land. The lands under Exp3 was sold as a house site and the acquired land is an agricultural land as admitted by the appellant in his cross-examination.

(v) It is pertinent to note that the date of Sec.4(1) Notification is on 15.04.2000. Exp1 is of the year 1998, 2 years prior to the notification. Exp2 and Exp4 are of the year 1999, but the nature of soil differs as it is Nanja land and the acquired land is Punja land. Exp3 was a sale of the year 1997, three years prior to the Notification and it is a house site. The position of lands in R.S. No. 90/5 in Exp1; R.S.No. 194/5 in Exp2; R.S.No. 90/6 inn Exp3 and R.S.No. 72/4-0.18 acres; R.S.No. 72/5- 0.18 acres and R.S.No. 72/6 – 0.35 acres in Exp4 are situated away from the acquired lands while comparing to the Data land in R.S.No. 17/2, 17/5 and 17/3 of the said Village. The data sale deed was also executed just 9 days prior to the Notification. The Referring Officer has not chosen to examine the parties concerned to show under what compelling circumstances, the lands were sold at the rate of Rs 50,000/- per acre. It is also to be noted in the Award that the lands of the appellant was acquired for housing 20 Adi-Dravida families as already 130 houses were built for them nearby the acquired lands in R.S.No. 3 and R.S.No. 8/1 of the same village. The Village Map in the Lower Court records at Page 105 clearly shows that the acquired lands is adjacent to the existing colony. The Land Acquisition Officer also decided to acquire the land of the appellant only after surveying

that the land is fit for housing. In such a case, the Award Officer would have determined the value on cent basis considering the acquired and also as house sites. It is also found from the Village map there are houses existing nearby the acquired lands.

(vi) For the above reasons, this Court decides that the acquired lands as House site. The market value of the acquired land is to be determined from the sale instances of similar potentiality, fertility, quality with the acquired land. Potentiality of land means capacity or possibility of changing or developing in state of actuality. It is held in **“The Special Tahsildhar (LA) /Vs/ Rathina Reddi- 2003(2) LW 267**, that whenever higher value has been produced before the Court while fixing the market value, the Court should follow the higher value alone. On that score the sale happened on 09.06.1997 relating to R.S.No. 90/6 an extent of 3924 sq.ft is considered. An extent of 3924 sq.ft was sold for a sale consideration of Rs 22,000/-. Pw3 in his evidence would say that he sold it at Rs 2,444/- per cent and its market value is Rs 6540/-. The situation of the land in R.S.No. 90/6 is not far away. However, the circumstances, such as the sale happened nearly 3 years prior to the date of notification and that the extent sold is small comparing to the acquired lands are considered.

(vii) In the ruling reported in **2002(3) LW(DB) 730- The Special Tahsildhar(LA), Master Plan Complex, Virudunagar vs Kamala**, it is held that “the Courts has to be remembered that it is statutory that the claimant has legal and legitimate right to a fair and reasonable compensation to the land he is deprived of by legal process.”. It is also held that “The judge should sit in the armchair of the said willing buyer and seek an answer to the question, whether

in the given set of circumstances as a prudent buyer he would offer the same market value which the court proposed to fix for the acquired lands in the available market conditions”. Based on the above circumstances, this Court decides that the market value mentioned in Exp3 as Rs 5,8860/- is discarded and the actual sale consideration of Rs 22,000/- for 3924 sq.ft alone is taken up for consideration in determining the market value of the acquired land.

(viii) The evidence on record shows that the Award officer could not deny that the land acquired is potential for housing at par with the other developed areas nearby. It is also evident that nearby areas of the land acquired are residential areas. Hence, this Court decides that the land acquired do not require any further deduction towards development charges. Considering the above aspects, this Court fix the land value at Rs 2500/- per cent.

(ix) The appellant is entitled to 15% Solatium as per Sec 7(2) of TN Acquisition of Land for Harijan Welfare Schemes Act, 1978. Based on the dictum of the Hon'ble Apex Court of India, in **Gurpreet Singh /Vs/ Union of India, - 2007(3) CTC 170 (SC)**, the Land Acquisition Officer is liable to pay interest at the rate of 6% p.a on solatium from the date of taking possession till the date of payment.

06. In the result, this appeal is partly allowed. The appellant is entitled for the enhanced compensation at the rate of Rs 2500/- per cent for the lands in R.S.No. 10/1 -0.18.0 hectares and R.S.No. 10/2-048.0 hectares of Vadaharirajapuram Village, Chidambaram taluk. For the enhanced compensation 6% p.a interest is awarded from the date of possession till deposit

of compensation amount into Court. The appellant is entitled for 15% solatium with interest at 6% per annum from the date of possession till the date of payment. The Land Acquisition Officer/ Respondent is directed to compensation within 3 months hereof. There is no order as to cost.

Directly dictated by me to the typist and typed by her, corrected and pronounced by me in the open court, this the 07th day of October 2017.

**Special Sub Judge for LAOP Cases,
Cuddalore**

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APPENDIX

Appellant's side witnesses:-

Pw1 - Tr. Rathinasabapathy (Appellant)
Pw2 - Tr. Chandrasekaran
Pw3 - Tr. Veerapandiyan
Pw4 - Tr. Saravanakumar

Appellant's side Exhibits :-

Exhibit No.	Date	Nature of document
Exp1	30.03.1998	Registration copy of the sale deed registered as Doc. No.129/1998 SRO, Orathur.

Exp2	11.04.1999	Registration copy of the sale deed registered as Doc. No.136/1999 SRO, Orathur.
Exp3	09.06.1997	Registration copy of the sale deed registered as Doc. No.225/1997 SRO, Orathur.
Exp4	23.08.1999	Registration copy of the sale deed registered as Doc. No.355/1999 SRO, Orathur.

Respondent's side witnesses:-

Rw1 - Murugesan, the Special Tahsildhar(ADW), Chidambaram.

Respondent's side exhibits:-

Nil

**Special Sub Judge for LAOP Cases,
Cuddalore**