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MANIMEGALAI

v.

THE SPECIAL TAHSILDAR (LAND ACQUISITION OFFICER)
ADI DRAVIDAR WELFARE

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(Civil Appeal Nos. 2294-2295 of 2011)

APRIL 16, 2018

[R. K. AGRAWAL AND ABHAY MANOHAR SAPRE JJ.]

C *Land Acquisition Act, 1894 – s.4(1), 5A, 18 – Part of appellant’s land acquired – Land Acquisition Officer awarded compensation of Rs. 400/- per cent of land to the appellant – Subordinate Judge on reference u/s.18, granted compensation @ Rs. 2,500/- per cent – High Court reduced the compensation from Rs. 2,500/- to Rs. 1,670/- – On appeal, held: In the instant case, the land in question is situated adjacent to the National highway and is also near a busy area with various facilities – Respondent determined the value of the land in question based on the sale deed which had happened five months prior to the date of acquisition of the land in question, wherein the land was sold @ Rs. 400/- per cent – Subordinate Judge correctly appreciated the fact that there is a railway track between such land which was taken as the data land and the acquired land and thus, both the lands cannot be considered as similar – Acquired land is in the midst of a railway track and national highway having capacity for higher potential – Further, lands adjacent to the land in question which were sold @ Rs. 4,919/- and Rs. 4,893/- in proximity within a very short time, amply prove its value in relation to the adjoining lands – Order passed by High Court set aside and that of Reference Court restored.*

E *Land Acquisition Act, 1894 – Compensation – Fair and reasonable compensation – Meaning of – Held: Fair and reasonable compensation means the price of a willing buyer which is to be paid to the willing seller.*

F *Land Acquisition Act, 1894 – Purpose of acquisition – ‘Public Purpose’ – What is – Held: Public purpose is not capable of precise definition – It would broadly include the purpose in which the general interest of the society as opposed to the particular interest*

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of the individual is directly and vitally concerned. A

Land Acquisition Act, 1894 – Compensation – Factors for determination – Discussed.

Disposing of the appeals, the Court

HELD: 1.1 Fair and reasonable compensation means the price of a willing buyer which is to be paid to the willing seller. Though the Act does not provide for “just terms” or “just compensation”, but the market value is to be assessed taking into consideration the use to which it is being put on acquisition and whether the land has unusual or unique features or potentialities. [Para 10][1092-B-C] B C

1.2 Similarly, public purpose is not capable of precise definition. Each case has to be considered in the light of the purpose for which acquisition is sought for. It is to serve the general interest of the community as opposed to the particular interest of the individual. Public purpose would broadly include the purpose in which the general interest of the society as opposed to the particular interest of the individual is directly and vitally concerned. Generally the executive would be the best judge to determine whether or not the impugned purpose is a public purpose. Yet it is not beyond the purview of judicial scrutiny. The interest of a section of the society may be public purpose when it is benefited by the acquisition. The acquisition in question must indicate that it was towards the welfare of the people and not to benefit a private individual or group of individuals joined collectively. Therefore, acquisition for anything which is not for a public purpose cannot be done compulsorily. In the case at hand, it is a matter of record that the said land is fit for using the same for house sites and situated adjacent to the National highway and is also near to the busy area with various facilities. [Paras 11, 12][1092-D-F] D E F

1.3 An assessment of the compensation payable for land acquired must take into account several factors, including the nature of the land, its present use and its capacity for a higher potential, its precise location in relation to adjoining land, the use to which neighbouring land has been put to use, the impact of such use on the land acquired, and so on. In the case at hand, G H

A the respondent determined the value of the suit land based on the sale deed dated 15.04.1993 under which 26 cents in S.No. 294/A/1-B16 was sold at the rate of Rs. 400/- per cent which had happened five months prior to the date of acquisition of the suit land and that land was taken as data land. The Subordinate Judge very correctly appreciated the fact that there is a railway track between the data land and the acquired land and in that view of the matter, both the lands cannot be considered as similar. It is also evident that the acquired lands are in the midst of a railway track and national highway having capacity for higher potential. An extent of land in S.No. 323 which was adjacent to the suit land was sold at the rate of Rs. 4,919/- per cent on 20.11.1992. Similarly, under the sale deed dated 22.03.1993, an extent of 8 cents has been sold at the rate of Rs. 4,893/- per cent. There is no doubt that the lands which are situated adjacent to the main road will fetch good market value than the lands which are situated beyond the road. Further, on the basis of the alleged sale deeds which were done in the proximity within a very short time amply prove its value in relation to the adjoining lands. The Subordinate Judge was right in holding the potential value of the suit lands. The order passed by the High Court is set aside and the order passed by the Reference Court is restored. [Paras 15, 16][1094-D-H; 1095-A-B]

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 2294-2295 of 2011.

From the Judgment and Order dated 06.11.2009 of the High Court of Judicature at Madras in A. S. No. 88 of 2001 and Cross Objection No. 27 of 2007.

V. Prabhakar, Ram Chandar, Ms. Jyoti Parashar, R. Chandrachud, Advs. for the Appellant.

The Judgment of the Court was delivered by

G **R. K. AGRAWAL, J.** 1. The above appeals have been filed against the judgment and order dated 06.11.2009 passed by the High Court of Judicature at Madras in A.S. Nos. 88 and 601 of 2001 and Cross Objection No. 27 of 2007 whereby learned single Judge of the High Court allowed the appeal filed by the respondent while dismissing the cross objection filed by the appellant herein.

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2. **Brief facts:**

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(a) On 15.09.1993, the Government of Tamil Nadu, issued a Notification under Section 4(1) of the Land Acquisition Act, 1894 (in short 'the LA Act') for acquisition of dry lands for the purpose of providing house sites to 250 landless poor Adi Dravidars in Acharapakkam Village, Madurandagam Taluk, Chengai, MGR District, Madras, having an extent of 4.30.0 hectares or 10.62 acres.

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(b) The lands belonging to the appellant herein in Survey Nos. 300/2A2, 300/3, 302/1A, 302/4, 317/1B2, 302/2B2B and 320/2C2 were part of the said acquisition. The Land Acquisition Officer, after complying with the formalities required in connection with the acquisition of land under the LA Act, passed an Award dated 22.03.1995, determining a sum of Rs. 400/- per cent as compensation to the appellant herein.

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(c) Being aggrieved by the meager compensation, a Reference under Section 18 of the LA Act was sought, seeking market value for the acquired lands at the rate of Rs. 20,000/- per cent before the Subordinate Court, Madurantagam which was filed as L.A.O.P. No. 120 of 1998. Learned subordinate Judge, vide judgment and order dated 27.03.2000, granted compensation at the rate of Rs. 2,500/- per cent together with 30% solatium and 12% additional amount from the date of issue of Notification dated 15.09.1993.

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(d) Respondent herein, being aggrieved by the judgment and order dated 27.03.2000, filed A.S. No. 88 of 2001 before the High Court. Learned single Judge of the High Court, vide judgment and order dated 06.11.2009 allowed the appeal filed by the respondent herein by reducing the amount of compensation granted by learned subordinate Judge from Rs. 2,500/- to Rs. 1,670/- with solatium and other statutory benefits.

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(e) Aggrieved by the judgment and order dated 06.11.2009, the appellant has filed these appeals by way of special leave before this Court.

3. Heard Mr. V. Prabhakar, learned counsel for the appellant. None appeared from the side of the respondent and perused the records.

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Point for consideration:-

4. Whether in the present facts and circumstances of the case the decision of the High Court is just and reasonable in reducing the compensation?

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A Rival submissions:-

5. Learned counsel for the appellant contended that the compensation awarded for the acquired lands was grossly inadequate and abnormally low and does not reflect the correct market value of the said lands. He further contended that the market value of the acquired lands at the relevant time was not less than Rs. 20,000/- per cent. The potential value of the acquired lands and rise in price were not considered by the Land Acquisition Officer. Learned counsel finally contended that the High Court also erred in law while computing the market value of the lands in question and interference by this Court is sought for in this regard.

6. It was the stand of the respondent before the courts below that the entire land belonging to the claimant was not acquired but a portion of it alone was acquired. The remaining portion could be used by the claimant. Further, the respondent is not entitled to pay compensation for the unacquired land. It was further the stand of the respondent that the compensation awarded to the claimant is already on the higher side as compared to the compensation awarded to the lands in vicinity and no interference is sought for by this Court in this regard.

Discussion:-

7. The Government of Tamil Nadu issued a Notification for the acquisition of dry lands, also known as punja lands, for the purpose of providing house sites to the people. Certain punja lands belonged to the appellant herein in Survey Nos. 300/2A2, 300/3, 302/1A, 302/4, 317/1B2, 302/2B2B and 320/2C2 were also part of the said acquisition. In the proceedings before the Special Tahsildar, a notice inviting objections was published in the village on 18.10.1993. Subsequently, in the enquiry under Section 5A of the LA Act, the appellant herein submitted her objections to the proposed acquisition and contended *inter-alia* that her total holdings were 6.11 acres and out of the same, an extent of 4.63 acres had been acquired, thereby, leaving a balance of 1.48 acres and the same would be rendered useless. Hence, she prayed that even the said extent also be acquired. However, the respondent herein affirmed the acquisition only in respect of 4.63 acres of land.

8. An Award enquiry was undertaken by the respondent wherein appellant herein claimed compensation at the rate of Rs. 20,000/- per

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cent for the land acquired. The respondent herein, on the basis of a sale deed dated 15.04.1993, wherein an extent of 0.26 acres had been sold in Survey No. 294/A/1-B 16, proceeded to determine the value of the land at Rs. 400/- per cent. In pursuance of the same, the land measuring 4.63 acres was awarded a sum of Rs. 1,85,200/- along with 30% solatium to the tune of Rs. 55,560/- and 12% additional market value to the tune of Rs. 33,540/- thus totaling to Rs. 2,74,309/-. However, it was held that no severance compensation would be payable.

9. Aggrieved by the Award, the appellant sought for a Reference under Section 18 of the LA Act. The appellant thus made a Reference to the Court of Additional Subordinate Judge, Chengalpattu which was numbered as LAOP No. 54 of 1995. The appellant herein submitted her claim statement on the file of LAOP No. 54 of 1995 contending that the compensation awarded by the respondent was grossly inadequate and abnormally low and did not reflect the correct market value of the lands and that the correct market value of the lands acquired was not less than Rs. 20,000/- per cent on the date of the Notification and that the acquired lands were situated in the midst of developed areas and is connecting the major big areas in the vicinity. LAOP No. 54 of 1995, which was pending on the file of learned Additional Subordinate Judge, Chengalpattu was transferred to the file of learned subordinate Judge, Madurantagam and re-numbered as LAOP No. 120 of 1998. Vide judgment and order dated 27.03.2000, learned subordinate Judge, granted compensation to the appellant herein at the rate of Rs. 2,500/- per cent together with 30% solatium, 12% additional amount from the date of Notification which was reduced to Rs. 1,670/- per cent with solatium and other statutory benefits by learned single Judge of the High Court in appeal vide judgment and order dated 06.11.2009.

10. Since the acquired lands are situated in different survey numbers, different quantum of compensation has been awarded for the lands so acquired. The general principles which have been followed in assessing the compensation payable in all these matters are the location of the lands sought to be acquired, their potential for development, their proximity to areas which are already developed and the exorbitant rise in the value of the lands over the years. In some of the cases, the authorities have taken recourse to the comparison method in regard to the sale transactions effected in respect of similar land in the area under the notifications close to the date of notification by which the lands of

A the appellant were acquired. The courts have also taken recourse to
assessing the value of the lands for the purposes of compensation on a
uniform rate in respect of the lands acquired, making a special concession
in respect of the lands which are close to the roads and national highways
where a certain amount of development had already taken place.
B Therefore, value which has to be assessed is the value to the owner
who parts with his property and not the value to the new owner who
takes it over. Fair and reasonable compensation means the price of a
willing buyer which is to be paid to the willing seller. Though the Act
does not provide for “just terms” or “just compensation”, but the market
value is to be assessed taking into consideration the use to which it is
C being put on acquisition and whether the land has unusual or unique
features or potentialities.

11. Similarly, public purpose is not capable of precise definition.
Each case has to be considered in the light of the purpose for which
acquisition is sought for. It is to serve the general interest of the community
D as opposed to the particular interest of the individual. Public purpose
broadly speaking would include the purpose in which the general interest
of the society as opposed to the particular interest of the individual is
directly and vitally concerned. Generally the executive would be the
best judge to determine whether or not the impugned purpose is a public
purpose. Yet it is not beyond the purview of judicial scrutiny. The interest
E of a section of the society may be public purpose when it is benefited by
the acquisition. The acquisition in question must indicate that it was
towards the welfare of the people and not to benefit a private individual
or group of individuals joined collectively. Therefore, acquisition for
anything which is not for a public purpose cannot be done compulsorily.

F 12. In the case at hand, it is a matter of record that the said land
is fit for using the same for house sites and situated adjacent to the
National highway and is also near to the busy area with various facilities.
During the course of proceeding, various sale deeds of adjacent lands
were brought to our knowledge. It is also undisputed fact that the entire
G land belonging to the appellant herein was not acquired but a portion of
it alone had been acquired. It is the grievance of the appellant that the
acquisition of land to the extent of 4.63 acres out of total holding of 6.11
acres, rendering the balance land to be an uneconomical holding for the
purpose of continuing agriculture operations. There is no doubt that the
land owners have to suffer when their lands acquired under the LA Act.

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Hence, they must be compensated properly in lieu of their lands to do proper justice. A

13. Since the point of consideration before this Court is related to the amount of compensation, we confine ourselves to that point only. Learned subordinate Judge, vide judgment and order dated 27.03.2000 rightly held as under:- B

“...There is a railway track in between the data land and acquired land. Therefore, while considering on the said angle, the nature of the acquired land and the data land are not similar. On considering the plan marked on behalf of the claimant and on behalf of the respondent i.e. Exh. B-2, it is evident that acquired lands are situated in between the national highway and railway track. The acquired lands are nearer to the National highway. The respondent has admitted in the cross examination that the acquired lands are acquired for housing purpose, as it is fit for using as housing plots. As the acquired lands are fit for housing purpose, the claimants have relied on sale transactions that are sold nearer to the acquired land, i.e. Exh. A-1, a sale deed dated 20.11.1992 relating to land in S.No. 323, under which 9374 sq ft. of land has been sold for Rs. 1,03,200/- at the rate of Rs. 4,919/- per cent. Similarly, under the sale deed dated 22.03.1993, an extent of 8 cents have been sold for Rs. 39,150/- at the rate of Rs. 4,893/- per cent. Under Exh. B-3 sale deed dated 09.07.1993 an extent of 3 ½ cents in S.No. 326/1W2 and 325/1A4A have been sold for Rs. 22,900/- at the rate of Rs. 6,545/- per cent. C D E

14. Learned subordinate Judge, further held as under:-

13) In Exh.B-4, an extent of 2 cents of land in S. No. 123 has been sold for Rs. 4,752/-. The above sale transactions took place prior to the notification issued under Section 4(1) but the said transactions have been considered and rejected by the respondents. The reason for rejecting Exh. B-3 is that the land is a house site situated adjacent to the national highway. While considering the reason for rejection is acceptable or not, the respondents themselves have admitted that the acquired lands are fit to be converted as house sites. As the acquisition of land is for house sites, the non acceptance of value of the house site and acceptance of the value of agricultural land in S.No. 294, is not F G

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A acceptable. The sale deeds Exh.A-1 to A-4 submitted on behalf
of the claimant are relating to the lands in S.No. 323, 325 and 326,
situate adjacent to National Highway and the value of those lands
are more than Rs. 4,000/- per cent which has been accepted by
the government itself, as market value while registering the
document. As the government has accepted Rs. 4,000/- per cent
B as market value, the valuation for the acquired land at the rate of
Rs. 400/- per cent is very low. The acquired lands are situated 2
or 3 survey numbers away from the lands relating to the survey
numbers in Exh. A-1 to A-4. Even though the valuation of the
acquired land cannot be fixed as stated in those sale deeds, it
C could be fixed to its potential at the rate of Rs. 2,500/- per cent as
compensation to the claimants.”

15. An assessment of the compensation payable for land acquired
must take into account several factors, including the nature of the land,
its present use and its capacity for a higher potential, its precise location
D in relation to adjoining land, the use to which neighbouring land has been
put to use, the impact of such use on the land acquired, and so on. In the
case at hand, the respondent determined the value of the suit land based
on the sale deed dated 15.04.1993 under which 26 cents in S.No. 294/A/
1-B16 had been sold at the rate of Rs. 400/- per cent which has happened
E five months prior to the date of acquisition of the suit land and that land
has been taken as data land. Learned subordinate Judge very correctly
appreciated the fact that there is a railway track between the data land
and the acquired land and in that view of the matter, both the lands
cannot be considered as similar. It is also evident that the acquired lands
are in the midst of a railway track and national highway having capacity
F for higher potential. An extent of land in S.No. 323 which was adjacent
to the suit land was sold at the rate of Rs. 4,919/- per cent on 20.11.1992.
Similarly, under the sale deed dated 22.03.1993, an extent of 8 cents has
been sold at the rate of Rs. 4,893/- per cent. There is no doubt that the
lands which are situated adjacent to the main road will fetch good market
value than the lands which are situated beyond the road. Though learned
G single Judge of the High Court was of the opinion that there was no
basis of granting Rs. 2,500/- per cent for the suit lands, we are of the
considered opinion that on the basis of the alleged sale deeds which
were done in the proximity within a very short time amply prove its
value in relation to the adjoining lands. Learned subordinate Judge was

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right in holding the potential value of the suit lands.

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Conclusion:-

16. In view of the above discussion, we do not find any merit in the order passed by learned single Judge of the High Court. We set aside the order passed by the High Court dated 06.11.2009 and restore the order passed by the Reference Court dated 27.03.2000. Consequently, Civil Appeal No. 2294 of 2011 arising out of A.S. No. 88 of 2001 before the High Court is allowed and Civil Appeal No. 2295 of 2011 arising out of Cross Objection No. 27 of 2007 before the High Court is dismissed with no order as to costs.

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Divya Pandey

Appeals disposed of.