

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30/04/2004

Coram

The Hon'ble Mr. Justice P.D. DINAKARAN  
and  
The Hon'ble Mr. Justice T.V. MASILAMANI

A.S. No.953 of 1995  
and A.S.Nos.954 to 957 of 1995  
and  
C.M.P.Nos.8914 & 8915 of 1999 and 15782 of 2003

A.S.No.953 of1995

The Special Tahsildar (L.A.),  
DAE Project, Kalpakkam,  
at Big Melamaiyur, Chengalpattu. .. Appellant

-Vs-

1. P.Chinnakannu Naickar  
2. Union of India,  
rep. by The Secretary to Government,  
Department of Atomic Energy,  
Mumbai.  
3. The Chief Administrative Officer,  
Department of Atomic Energy,  
Kalpakkam. .. Respondents

A.S.No.954 of1995

The Special Tahsildar (L.A.),  
DAE Project, Kalpakkam,  
at Big Melamaiyur, Chengalpattu. .. Appellant

vs.

1. Thiru Viswanatha Chettiar  
2. Thiru E.Rammohan  
3. Thiru E.Nataraja Chettiar  
4. Tmt N.Indrani Ammal  
5. V. Lakshmi Ammal  
6. P.Rajeswari Ammal .. Respondents

A.S.No.955 of1995

The Special Tahsildar (L.A.),  
DAE Project, Kalpakkam,  
at Big Melamaiyur, Chengalpattu. .. Appellant

vs.

1. Tmt Alamelammal (Died)
2. Thiru Venkatesa Naicker
3. Thiru Thambiran Naicker
4. Tmt Vadivambal .. Respondents

A.S.No.956 of1995

The Special Tahsildar (L.A.),  
DAE Project, Kalpakkam,  
at Big Melamaiyur, Chengalpattu. .. Appellant

vs.

1. Thiru Natarajan
2. Union of India,  
rep. by The Secretary to Government,  
Department of Atomic Energy,  
Mumbai.
3. The Chief Administrative Officer,  
Department of Atomic Energy,  
Kalpakkam. .. Respondents

A.S.No.957 of1995

The Special Tahsildar (L.A.),  
DAE Project, Kalpakkam,  
at Big Melamaiyur, Chengalpattu. .. Appellant

vs.

1. Thiru Rathina Naickar
2. Union of India,  
rep. by The Secretary to Government,  
Department of Atomic Energy,  
Mumbai.
3. The Chief Administrative Officer,  
Department of Atomic Energy,  
Kalpakkam. .. Respondents

A.S.No.953 of 1995 against the judgment and decree made in L.A.O.P.  
No.102 of 1990 dated 29.7.1993 on the file of the Subordinate Judge,

Chengalpattu.

A.S.No.954 of 1995 against the judgment and decree made in L.A.O.P.  
No.103 of 1990 dated 29.7.1993 on the file of the Subordinate Judge,  
Chengalpattu.

A.S.No.955 of 1995 against the judgment and decree made in L.A.O.P.  
No.104 of 1990 dated 29.7.1993 on the file of the Subordinate Judge,  
Chengalpattu.

A.S.No.956 of 1995 against the judgment and decree made in L.A.O.P.  
No.105 of 1990 dated 29.7.1993 on the file of the Subordinate Judge,  
Chengalpattu.

A.S.No.957 of 1995 against the judgment and decree made in L.A.O.P.  
No.106 of 1990 dated 29.7.1993 on the file of the Subordinate Judge,  
Chengalpattu.

!For Appellant : Mr.E.Sampath Kumar,  
Govt. Advocate.

^For Respondents : Mr.K.Hariharan (For Claimants)  
Mr.C.Krishnan,SCGSC (For Department of  
Atomic Energy)  
Mr.A.M.Loganathan (For R2 in AS 957/95)

:JUDGMENT

(Judgment of the Court was delivered by T.V. MASILAMANI, J.)

These appeals have been preferred against the awards passed by the  
Claims Tribunal (Additional Subordinate Court), Chengalpattu in L.A.O.P.  
Nos.102 to 106 of 1990 dated 29.7.1993.

2. The extent of land measuring 11.15 acres (4.51.5 hectares) in  
Kunnathur village, Chengalpattu Taluk had been acquired for the purpose of  
providing residential staff quarters of Department of Atomic Energy, Kalpakkam  
at Chengalpattu Taluk under Schedule II of the Land Acquisition Act, 1894 and  
Section 4(1) notification was issued on 22.6.1988 on that behalf. Though the  
land owners claimed Rs.500/- per cent by way of compensation in respect of the  
acquired lands, after enquiry under award proceedings No.1/90 dated 19.7.1990,  
the Land Acquisition Officer and Special Tahsildar fixed the compensation for  
the acquired land at the rate of Rs.40/- per cent with 30% solatium and 12% on  
the market value for the period from 23.7.1988 to 19.7.1990.

The total compensation amount awarded was Rs.89,332/- in  
respect of the acquired land in Survey No.1/30 measuring 4.53 acres which is  
the subject matter of L.A.O.P. No.102 of 1990.

The total compensation amount awarded was Rs.17,560/- in  
respect of the acquired land in Survey No.7/17 measuring 1.54 acres which is

the subject matter of L.A.O.P. No.103 of 1990.

The total compensation amount awarded was Rs.19,699/- in respect of the acquired land in Survey No.7/51 measuring 3.20 acres which is the subject matter of L.A.O.P. No.104 of 1990.

The total compensation amount awarded was Rs.6,156/- in respect of the acquired land in Survey No.7/54 measuring 1.00 acre which is the subject matter of L.A.O.P. No.105 of 1990.

The total compensation amount awarded was Rs.5,417/- in respect of the acquired land in Survey No.7/54 measuring 0.88 acre which is the subject matter of L.A.O.P. No.106 of 1990.

3. In pursuance of the requisition made by the claimants/land owners, the Land Acquisition Officer referred the proceedings to the Claims Tribunal, Chengalpattu. The land owners and the Land Acquisition Officer adduced evidence both oral and documentary in support of their respective contentions and after considering such evidence and the arguments advanced on either side, the Claims Tribunal fixed the market value of the acquired land at Rs.120/- per cent and awarded the same with statutory solatium and 12% additional compensation on the basis of appreciation of value in respect of the acquired land with interest at 9% per annum for one year from the date of taking possession and in default, to pay the amount within one year with interest at 15% per annum. Hence the appeals.

4. The learned counsel for the claimants/land owners has contended at the outset that the sale deed in item No.9 referred to by the Land Acquisition Officer in the award proceedings relates to the transaction dated 28.7.1988 in respect of 5 cents sold at the rate of Rs.400/- per cent and that therefore the learned Tribunal erred in fixing the compensation at the rate of Rs.120/- per cent.

5. A careful perusal of the judgment rendered by the Tribunal reveals that sale deed dated 28.7.1988 under item No.8 in the award proceedings is relied upon to arrive at the compensation. Further, it is seen that the learned Subordinate Judge having found that the land covered by the said sale deed had been sold at the rate of Rs.85/- per cent and added Rs.35/- per cent towards potential appreciation in the value and arrived at the compensation at the rate of Rs.120/- per cent.

6. In this context, the learned counsel for the requisitioning authority has drawn our attention to Section 6 of the Tamil Nadu Nuclear Installation Regulation of Building and Use of Land Act 1978 and contended that in view of the provision under the said Act, there is no scope for appreciation in the value of the lands as house sites for the simple reason that under the said provision, an embargo has been made to the effect that no person other than the Central Government or any local authority shall erect

any building within 4.8 km. radius area of such nuclear installation. Hence he has urged that compensation in respect of such appreciation in the value of the acquired land as potential house sites cannot be granted in this case.

7. In this respect, he has also drawn our attention to the judgment

of the Division Bench of this Court in A.S.No.339 of 1995 and other batch of cases dated 28.3.2003 rendered in respect of the lands acquired at the instance of the same requisitioning authority to meet the requirements of Kalpakkam Atomic Power Station. It is useful to extract the following from the above judgment to elucidate the facts at issue in this appeal.

"On the other hand, the learned counsel appearing for the requisitioning body would contend that Survey No.230 is a very vast area and the extent of 10 cents sold is comprised in Survey No.230/2A4/B/2 and in the plan available before the Court, it is not clear as to whether it lies on the northern side or middle portion or southern side of Survey No.230. That apart, the learned counsel would also contend, that was a vacant plot meant for constructing house and that being so, that sale is not a comparable transaction as the lands acquired are agricultural lands with no scope for developing those lands as house sites. The attention of the Court has also been drawn by the learned counsel to the fact that there is no evidence available on record that closer to the acquired land, there are important landmarks like school, college, hospital or residential colonies. The learned counsel appearing for the requisitioning body brings to the notice of this Court the Act called Tamil Nadu Nuclear Installations (Regulation of Buildings and Use of Land) Act, 1978. Section 6 of the said Act is to the effect that no person other than the Government or the Central Government or any local authority shall (a) erect or re-erect a building on any land; or (b) put to use any agricultural land to any non-agricultural purpose; or (c) carry out any engineering, mining or other operation on any land with the sterilised area without a licence of the Nuclear Installation Local Authority. Section 2(8) has defined the term "sterilised area" as the area within 4.8 kilometres from any portion of the boundary of such nuclear installation."

8. On the contrary, the learned counsel for the claimants has submitted in his arguments that the location of the acquired land is abutting the main road leading to Kalpakkam Mahabalipuram Coastal Main Road, whereas the data land is situate in an interior place in the village. Therefore, it is urged on the part of the claimants that the compensation fixed by the Tribunal is too low considering the strategic locality where the acquired land is situated.

9. On a careful perusal of the award proceedings in the light of the village map relied upon by the Land Acquisition Officer, we are of the considered view that the sale deed under item No.7 in the award proceedings may be the reasonable data sale deed for fixing the just compensation in this case. It is apparent on the face of the record that the sale deed under item No.8 relied upon by the Tribunal came into existence one month later from the date of Section 4 (1) notification made under the Land Acquisition Act and therefore in view of the settled principle of law that such subsequent sale deed cannot be taken into account while fixing the compensation in respect of the acquired land, we are not inclined to rely upon the same.

10. The award proceedings reveals that the sale deed under item No.7

dated 27.3.1987 was executed in respect of an extent of 11 cents for Rs.720/- and if it is calculated, the value per cent comes to Rs.65.45. Considering the admitted fact that the said land is situated near the main road leading from Kalpakkam to Mahabalipuram which is the Coastal Main Road, we are of the view that even for agricultural purpose, the land value is likely to appreciate. In view of such aspect of the matter and considering the time lag of 1 year and 3 months between the date of Section 4(1) notification and the date of sale deed, appreciation of the said land at the rate of 15% even for agricultural land would be normal in the natural course of events.

11. Moreover, the contention of the learned counsel for the requisitioning authority is also taken into account with reference to the said Act of 1978 passed to protect the "sterilised area" of 4.8. km radius from the atomic power station, that the appreciation in value as stated above is not unreasonable. Considering all the facts and circumstances, we find that fixing the compensation at Rs.85/- per cent in respect of the acquired lands under consideration is just and reasonable.

12. In the result, the appeals are allowed in part and the market value of the acquired lands for the purpose of compensation is fixed at Rs.85/- per cent with 30% solatium and 12% additional compensation on the basis of appreciation in value and with the interest as per awards passed by the Claims Tribunal. However, there will be no order as to costs. Consequently, the connected C.M.Ps. are dismissed.

Index: Yes

Website: Yes

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To

1. The Additional Subordinate Judge, Chengalpattu.
2. The Section Officer, V.R.Section, High Court, Madras.

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