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A.S.Nos.417 to 421 of 2010
and
M.P.Nos.1/2010(5 petitions)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :21.02.2022

Pronounced on :02.03.2022

Coram::

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Appeal Suit Nos.417 to 421 of 2010

and

M.P.Nos.1/2010(5 petitions)

A.S.No.417 of 2010

M/s Oil and Natural Gas Corporation Ltd.,
rep.by its Deputy General Manager,
Neravy Complex, Karaikkal,
Pondicherry State.

.. Appellant

/versus/

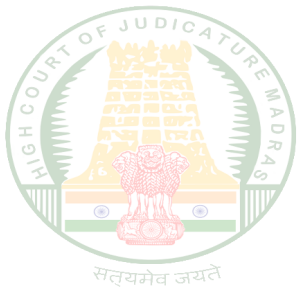
1.Rajeswari

2.Union of India rep.by
Secretary to Government (Revenue),
Puducherry.

3.Deputy Collector (Revenue) cum
Land Acquisition Officer,
Karaikkal.

.. Respondents

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Prayer : Appeal Suit has been filed under Section 54 of the Land Acquisition Act, 1894 against the award passed by the learned Additional District Judge, Puducherry at Karaikkal in L.A.O.P.No.31 of 2000 dated 18.12.2007.

For Appellants :Mr.Mohamme Fayaz Ali

For Respondents :Mr.T.Susindran for R1
No appearance for R2 and R3

A.S.No.418 of 2010

M/s Oil and Natural Gas Corporation Ltd.,
rep.by its Deputy General Manager,
Neravy Complex, Karaikkal,
Pondicherry State. .. Appellant

/versus/

Detchinamoorthy Mudaliar deceased
rep.by his legal heirs
1.D.Thamayandhy
2.D.Sivakumar
3.K.Kalaivani
4.R.Sivagama Sundari
5.S.Sithalakshmi
6.D.Rajkumar
7.S.Gandhimathi
8.D.Sundaresan

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9.Union of India rep.by Secretary
to Government (Revenue),
Puducherry.

10.Deputy Collector (Revenue)cum
Land Acquisition Officer,
Karaikkal.

..Respondents

Prayer: Appeal Suit has been filed under Section 54 of the Land Acquisition Act, 1894 against the award passed by the learned Additional District Judge, Puducherry at Karaikkal in L.A.O.P.No.16 of 2000 dated 18.12.2007.

For Appellants :Mr.Mohamme Fayaz Ali

For Respondents :Mr.R.Natarajan for R1 to R8
No appearance for R9 and R10

A.S.No.419 of 2010

M/s Oil and Natural Gas Corporation Ltd.,
rep.by its Deputy General Manager,
Neravy Complex, Karaikkal,
Pondicherry State.

.. Appellant

/versus/

1.G.Kumar @ Jayaraman

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2.Union of India rep.by
Secretary to Government(Revenue),
Puducherry.

3.Deputy Collector (Revenue) cum
Land Acquisition Officer,
Karaikkal.

.. Respondents

Prayer : Appeal Suit has been filed under Section 54 of the Land Acquisition Act, 1894 against the award passed by the learned Additional District Judge, Puducherry at Karaikkal in L.A.O.P.No.17 of 2000 dated 18.12.2007.

For Appellants :Mr.Mohamme Fayaz Ali

For Respondents :Mr.R.Natarajan for R1
No appearance for R2 and R3

A.S.No.420 of 2010

M/s Oil and Natural Gas Corporation Ltd.,
rep.by its Deputy General Manager,
Neravy Complex, Karaikkal,
Pondicherry State.

.. Appellant

/versus/

1.Ramanathan @ Nataraja Mudaliar
rep.by its Legal heir Dr.Sivaraj Kumar

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2.Union of India rep.by
Secretary to Government(Revenue),
Puducherry.

3.Deputy Collector (Revenue) cum
Land Acquisition Officer,
Karaikkal.

.. Respondents

Prayer.: Appeal Suit has been filed under Section 54 of the Land Acquisition Act, 1894 against the award passed by the learned Additional District Judge, Puducherry at Karaikkal in L.A.O.P.No.18 of 2000 dated 18.12.2007.

For Appellants :Mr.Mohamme Fayaz Ali

For Respondents : Mr.R.Natarajan for R1
No appearance for R2 and R3

A.S.No.421 of 2010

M/s Oil and Natural Gas Corporation Ltd.,
rep.by its Deputy General Manager,
Neravy Complex, Karaikkal,
Pondicherry State.

.. Appellant

/versus/

1.R.Sivaraja Kumar

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and
M.P.Nos.1/2010(5 petitions)

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2.Union of India rep.by
Secretary to Government(Revenue),
Puducherry.

3.Deputy Collector (Revenue) cum
Land Acquisition Officer,
Karaikkal.

.. Respondents

Prayer: Appeal Suit has been filed under Section 54 of the Land Acquisition Act, 1894 against the award passed by the learned Additional District Judge, Puducherry at Karaikkal in L.A.O.P.No.25 of 2000 dated 18.12.2007.

For Appellants :Mr.Mohamme Fayaz Ali

For Respondents : Mr.R.Natarajan for R1
No appearance for R2 and R3

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COMMON JUDGMENT

Appeal Suit in **A.S.No.417 of 2010** is directed against the award passed by the learned Additional District Judge, Puducherry at Karaikal in L.A.O.P.No.31 of 2006 dated 18.12.2007.



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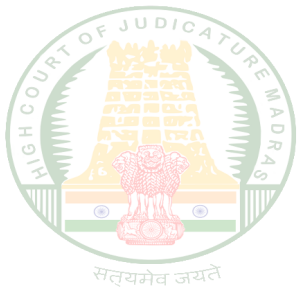
Appeal Suit in **A.S.No.418 of 2010** is directed against the award passed by the learned Additional District Judge, Puducherry at Karaikal in L.A.O.P.No.16 of 2000 dated 18.12.2007.

Appeal Suit in **A.S.No.419 of 2010** is directed against the award passed by the learned Additional District Judge, Puducherry at Karaikal in L.A.O.P.No.17 of 2000 dated 18.12.2007.

Appeal Suit in **A.S.No.420 of 2010** is directed against the award passed by the learned Additional District Judge, Puducherry at Karaikal in L.A.O.P.No.18 of 2000 dated 18.12.2007.

Appeal Suit in **A.S.No.421 of 2010** is directed against the award passed by the learned Additional District Judge, Puducherry at Karaikal in L.A.O.P.No.25 of 2000 dated 18.12.2007.

2.Since all these five appeals are directed against the award passed by the Reference Court in LAOPs arising out a common notification and the point for consideration is one and the same, after hearing the learned



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counselors for the respective parties in all the appeals, the following common judgment has been passed:-

For the purpose of Oil and Natural Gas Corporation of India (in short “ONGC”) store-yard for drilling and other operational groups, the Land Acquisition Officer acquired to an extent of 1.75.00 hectares of land in T.S.No.N/4/26/5 (in L.A.O.P.No.31 of 2006); to an extent of 1.10.50 hectares of land in T.S.No.N/4/25/3(in L.A.O.P.No.16 of 2000); to an extent of 0.41.00 hectares of land in T.S.No.N/4/25/4 (in L.A.O.P.No.17 of 2000); to an extent of 1.10.50 hectares of land in T.S.No.N/4/25/3 (in L.A.O.P.No.18 of 2000); and to an extent of Rs.1.10.50 hectares of land in T.S.No.N/4/25/3 (in L.A.O.P.No.N/4/25/3) situated at Akkaraivattam Village. The Acquisition Officer awarded compensation of Rs.2,000/- to Rs.2500/- per Are, after taking note of the data value and government guideline value as market value.



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3. Aggrieved by that, the land owners have demanded additional compensation at the rate of Rs.10,000/- per kuzhi. Hence, the matter was referred to the Reference Court, as per the Land Acquisition Act, 1894.

4. Before the Reference Court, the Land Acquisition Authority contended that the compensation was fixed on 18.12.2007 in A.S.No.417 of 2010 (L.A.O.P.No.31 of 2006); A.S.No.418 of 2010 (L.A.O.P.No.16 of 2000); A.S.No.419 of 2010 (L.A.O.P.No.17 of 2000); A.S.No.420 of 2010 (L.A.O.P.No.18 of 2000); and A.S.No.421 of 2010 (L.A.O.P.No.25 of 2000), based on the guideline value and the date value. The acquired land was an undeveloped piece of wet land and not utilised for cultivation and not used as house site during the past 10 years and it was under the lease of ONGC (appellant herein) for storing materials. The area acquired is located at distance of more than 150 meters away from the Karaikal-Nagore Main Road. The acquired land cannot be treated as housing-site for fixing of value. There is no residential area near the acquired land and the potential



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for appreciation is Nil. At the time of Notification, the housing site at Karaikal Region was sold below Rs.50/- per sq.ft and therefore, pleaded to set aside the award of enhanced compensation.

5.Per contra, the learned counsel appearing for the the claimants/respondents have submitted that the land was already under the lease of ONGC (appellant herein) and they were using it without any further improvement after acquisition. The compensation fixed by the Land Acquisition Officer was very low comparing to the data sale produced before the Acquisition Officer. The land very adjacent to the acquired land situated just opposite to the road fetched Rs.1,800/- per sq.ft. Ignoring those documents, a meager sum of Rs.2,000/- to Rs.2,500/- per Are has been fixed, which is far below the market value.

6.The Reference Court, after considering the evidence let in by the parties and the documents along with topo sketch, has fixed Rs.2,000/- to

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Rs.2500/- per Are as prevailing market value and awarded the enhanced compensation of Rs.11,272/- per Are with interest from 07.01.1998 to 31.12.1999 along with 30% of solatium for the market value after deduction of 25% for development charges but not given interest to the solatium which is essential part of compensation.

7.Further, he contended that these appeals are filed not by the Acquisition Authority, but by the Requisition Authority namely, ONGC, who is the third party to the proceedings before the Reference Court.

8.The main contention raised in these appeals is that, the Requisition Authority was not made a party in the Reference Court and therefore, the award passed behind them has to be set aside. Further, it is contended that, Ex.A1 and Ex.A2, which are the data sale deeds, were not proved in the manner known to law and therefore, reliance on these two documents for fixation of market value is erroneous. The industries, referred in the claim



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petitions and in the chief examination of the witnesses, admittedly are not near the vicinity of the land acquired, but at the distance of more than four kilometres. The Land Acquisition Officer fixed the market value at Rs.2,000/- to Rs.2,500/-per Are, after scrutinizing 57 sale deeds. When there was no transaction within the vicinity of the land acquired, the Reference Court ought not to have relied on Exs.A1 and A2 for fixing the market value at the higher rate of Rs.11,272/- per Are, without any basis or materials.

9.Per contra, the learned counsel appearing for the respondents/claimants submitted that the Acquisition Authority, after collecting 57 sale deeds between 08.01.1997 and 07.01.1998, rejected 56 of them and retained only one for fixing the value at the rate of Rs.2,000/- per Are; Rs.2,245/- per Are and Rs.2,500/- per Are respectively. The said value is the market value, but not the government guideline value. No doubt, there was no transaction of the land in the said survey number acquired,

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since these lands have already been leased under ONGC and they have been using it for storage purpose. However, the Reference Court has rightly relied on Ex.A1 and Ex.A2, which are the sale deeds of land just across the road and the potential appreciation of value of this land has been well considered by the Reference Court for fixing the compensation at the rate of Rs.11,272/- per Are and the evidence of RW1(M.Murugesan) admitting the potential appreciation of value of this land has also been taken note by the Reference Court. Exs.A1 and A2 are not documents newly introduced but they are the documents referred in Sl.Nos.46 and 47 in the sale statistics considered by the Land Acquisition Authority, while scrutinizing the date sale deeds but ignored for no valid reason and therefore, no formal proof is required for these documents.

10.The learned counsel relying upon the judgment of the Hon'ble Supreme Court in ***Cement Corporation of India Ltd. v. Purya reported in [2004(8) SCC 270]*** would submit that having the claimants discharged their



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burden of proof concerning market value for the land acquired, the Requiring Authority cannot still insist to part away the property at guideline value or lesser value.

11.Regarding the non-impleading of the Requisition Authority in the Reference Proceedings, the learned counsel for the respondents submitted that under Pondicherry Land Acquisition Rules, the Acquisition Authority alone is the necessary party before the Reference Court and not the Acquisition Authority.

12.The point for consideration is whether the award of the Reference Court warrants any interference?

13.The award of Rs.11,272/- per Are is not arbitrarily fixed by the Reference Court. It is based on the documents marked as Ex.A1 and Ex.A2 which are the data sale deeds pertaining to the land just across the road

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where the acquired land is situated. As rightly pointed out by the learned counsel appearing for the respondents, the land under acquisition was not barren land and left without cultivation activity. Their land already leased to the appellant (ONGC). The land been utilised for storage purpose for more than a decade. Since they want the ownership of the land, the acquisition proceedings has been initiated by issuance of Notification under Section 4(1) of the Land Acquisition Act, 1894 in the Official Gazette on 16.12.1997. After Enquiry under Section 5-A of the Land Acquisition Act, 1894, declaration for acquisition under Section 6(1) of the Land Acquisition Act, 1894 was published on 15.09.1998. While passing the award on 31.12.1999, the Acquisition Authority has fixed the compensation at the rate of Rs.2,000/-, Rs.2,245/- and Rs.2,500/- respectively per Are for the land acquired. Obviously, the Acquisition Authority had rejected the sale deeds found in Sl.Nos.46 and 47 on the ground that they are the dry lands, whereas the land, which has now been acquired, has been classified as wet land. For industrial purpose, it is immaterial whether the land is wet or dry.

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Even otherwise it is a common knowledge that wet land is more valuable than the dry land, if it is used for agricultural purpose. In any event, the rejection of date sale shown in Sl.Nos.46 and 47 by the Acquisition Authority is unreasonable. The said injustice caused to the land owners has been rectified by the Reference Court by accepting the data sale Exs.A1 and A2. Further, while the Act mandates to provide market value for the land acquired, obviously in this case, the value is fixed only based on the government guidelines value and not the market value. The Reference Court has rightly fixed the value at Rs.11,272/- per Are, which is the market value prevailing at the time of 4(1) Notification.

14.The learned counsel appearing for the respondents/claimants submitted that in terms of Section 28 of the Land Acquisition Act, 1894, for solatium the land owners are entitled for interest. However, in this case, the Reference Court has omitted to award interest for the solatium. Interest is a mandatory component as declared by the Hon'ble Supreme Court and under



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Section 28 of the Land Acquisition Act, 1894.



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15. Section 28 of the Land acquisition Act, 1894 reads as below:-

28. Collector may be directed to pay interest on excess compensation:-

If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.

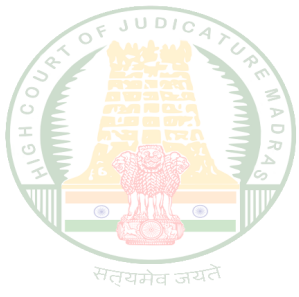


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16.This Court finds force in the said submissions made by the learned counsel appearing for the respondents. The mandatory component of compensation, if not made to the land owners, they are entitled, even if they have not preferred any cross objection or appeal for the interest portion on the solatium. Therefore, their right to seek interest to solatium in the appeal filed by the third party/Requisition Authority has to be entertained. The cardinal principle in land acquisition is, when a person is deprived of his Constitutional Right to hold property, he must be paid a just and fair compensation. Therefore, when the statute prescribes interest to compensation at a particular rate (i.e) 9% p.a., from the date of award, till the date of possession plus one year and at the rate of 15% thereafter, the same has to be applied on the solatium also, as mandated under Section 28 of the Land Acquisition Act, 1894.



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17. With the above clarification and modification, these Appeal Suits are disposed of. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Index:yes
Speaking order/non speaking order
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To:

The Additional District Judge,
Puducherry.

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DR.G.JAYACHANDRAN,J.

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Judgment made in
A.S.Nos.417 to 421 of 2010
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