IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 29.7.2015.

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE T.MATHIVANAN

S.A.No.362 of 2015

1. The State of Tamil Nadu
   rep. by the District Collector
   of Krishnagiri District,
   Chennai Main Road,
   Krishnagiri 635 001.
   Krishnagiri District.

2. The Special Tahsildar,
   Adi Dravidar Welfare cum
   Land Acquisition Officer,
   Krishnagiri, having office at
   Bangalore Main Road,
   Krishnagiri 635 001.
   Krishnagiri District. ... Appellants/Respondent/ Referring Officer

vs.

Ka.Velayudham ... Respondent/Appellant/ Claimant

Second Appeal filed under Section 13 of TamilNadu Acquisition of Land for ADW Schemes Act, 31/78 read with Section 100 of C.P.C against the judgment dated 5.7.2010 in C.M.A.(L.A.) No.6 of 2004 on the file of the Principal Subordinate Judge, Krishnagiri modifying the Award No.2/2003-04 dated 11.3.2004 on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Krishnagiri.

For appellants : Mr.M.Venugopal,
Special Govt. Pleader (CS)

For Respondent : Mr.D.Shivakumaran

JUDGMENT

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

The State has come up with the above second appeal under section 13 of the Tamil Nadu Act 31/1978 read with section 100 of the Code of Civil Procedure Code, questioning the enhancement of compensation awarded by the Sub Court in land acquisition proceedings.

2. Heard Mr.M.Venugopal, learned Special Government Pleader for the appellant. Mr.D.Shivakumaran, learned counsel takes notice for the respondent.

3. Land of an extent of 1.97.5 hectares in Survey No.98/1B and 98/1D2 at Jagadevipalayam Village, Krishnagiri District was acquired by the State under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 for the purpose of providing house-sites to Adi Dravidars. Notification under section 4(1) of the Act was issued on 2.1.2004. After enquiry, an award was passed in Award No.2/2003-04 on 11.3.2004 fixing the compensation payable as Rs.1,62,499/- per hectare. On appeal in C.M.A.No.6 of 2004, the Principal Sub Court, Krishnagiri enhanced the compensation to Rs.10,32,894/- per hectare. Aggrieved by such enhancement of compensation, the State has come up with the above second appeal.

4. At the outset, it should be pointed out that a second appeal under section 13 of the Tamil Nadu Act 31/1978 is placed on par with a second appeal under Section 100 of the Code. Therefore, we will have to examine whether any substantial question of law that arises for consideration in the second appeal.

5. In the Memorandum of Grounds of Second Appeal, the appellant has raised the following substantial questions of law:-

> "a. Whether the learned Judge justified to enhance the award passed by the appellant based on the document relied upon by the respondent when those documents are not relevant to the acquired land?
> b. Whether the learned Judge justified in holding

that the enhancement of award can be made based on the sale deed document which is house site and small extent when the acquired land is agriculture land and larger extent?

c. Whether the learned Judge erred by rejecting the document based on the appellant fixed the value of the acquired land without any valid reasons?"

6. A careful perusal of the judgment of the Sub Court would show that the Tribunal has considered all the parametres laid down by the Supreme Court and no substantial question of law arises for consideration.

7. It is seen from the award of the land acquisition officer that he took into account about 122 data sales. Out of those 122 data sales, the land acquisition officer rejected about 17 on the ground that they were located at a distance. Another set of 56 transactions were rejected on the ground that they were house-sites. A set of 35 transactions were rejected on the ground that they were sold for the purpose of developing gardens. One sale transaction was rejected on the ground that it was purchased for excavating granite stones. Eventually, the land acquisition officer took into account one sale deed at serial number 43 dated 18.9.2002, under which the land of an extent of 0.57 acre had been sold for a sum of Rs.37,050/-. Hence, the land acquisition officer fixed the compensation as Rs.65,000/- per acre.

8. Before the court, the claimant was examined as CW1 and he filed the documents as Exs.C1 and C2. The Tahsildar was examined as RW1 and he filed seven documents.

9. After perusing the documents, the Sub Court found that though Exs.C1 and C2 relate to sale transactions of small properties, the lands sold under those documents were located in the very same survey number. Therefore, applying the principles laid down by the Apex Court that the best evidence of the market value could be gathered from the transactions in respect of the very same land (LAND ACQUISITION OFFICER AND SUB-COLLECTOR, GADWAL v. SMT.SREELATHA BHOOPAL AND ANOTHER (AIR 1997 SC 2552)), the Sub Court enhanced the compensation. In fact, the Sub Court actually deducted 20% towards development charges even after taking the value as per Exs.C1 and C2.

10. It must be noted that unlike under the Land Acquisition Act, 1894, the land owners are entitled to interest only at the rate of 6% per annum and solatium only at 15%. Therefore, in cases of this

nature, a careful scrutiny is required. Hence, we find no justification to entertain the second appeal as no substantial question of law arises for consideration. Therefore, the second appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Principal Subordinate Judge,
   Krishnagiri

2. Special Tahsildar (ADW) cum
   Land Acquisition Officer,
   Krishnagiri.

+1cc to Mr.D.Shivakumaran, Advocate, S.R.No.38892
+1cc to the Special Government Pleader(CS), S.R.No.38846

S.A.No.362 of 2015

PUR(CO)
CA(20/08/2015)