



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2015

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THE HON'BLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No.75 of 2015
and M.P.No.1 of 2015

- 1.The Additional Special Tahsildar,
Adi Dravidar Welfare Land Acquisition Officer,
Harur Taluk,
Dharmapuri District.
- 2.The District Adi Dravidar Welfare Officer,
Dharmapuri.
- 3.The District Collector,
Dharmapuri District. ... Appellants/ Referring officer

-Versus-

K.T.Manivannan ... Respondent/ Claimant

This second appeal is filed against the judgment and decree dated 25.08.2012 made in C.M.A.(L.A.) No.01 of 2008 by the Subordinate Judge, Harur, Dharmapuri District, modifying the Award No.12/2000-01, dated 29.03.2001 on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Harur, Dharmapuri District.

For Appellants : Mr.T.Jayaramaraj,
Government Advocate (CS)

For Respondent : Mr.C.C.Chellappan

JUDGMENT

This second appeal is directed against the order of appeal made under the provisions of The Tamil Nadu Harijan Welfare Schemes Land Acquisition Act, 1978 [Tamil Nadu Act 31/1978] against the award passed by the 1st appellant herein in respect compensation to be paid to the respondent on account of the acquisition of land in question.



2. Admittedly, the respondent is the owner of 1.55.0 Hectares [3.83 cents] of land comprised in S.No.169/2 at Bairnayakkanpatti Village in Harur Taluk, Dharmapuri District. The said land was required for a public purpose to assign house sites to the poor people belonging to adi dravida community of the said village. After acquisition, possession was taken and the land has also been assigned to the landless poor. The inquiry to fix the compensation was taken up by the 1st respondent in Na.Ka.No.218/2001(B). After holding inquiry, the Additional Special Tahsildar, passed an award under Award NO.12/2000-2001 Na.Ka.No.218/2001(B) dated 29.03.2001 fixing compensation at the rate of Rs.19,000/- per acre together with 15% of solatium for 1.55.0 Hectares. The compensation fixed worked out to Rs.72,770/- and the solatium worked out to Rs.10,916/-. Thus, the total award amount was Rs.83,686/-. The respondent was aggrieved by the said award and, therefore, he made an appeal before the learned Subordinate Judge, Harur, in C.M.A.No.01/2008.

3. During enquiry, before the first appellate court, on the side of the respondent/claimant, 2 witnesses were examined and 3 documents were marked Exs.C.1 to C.3 and on the side of the appellant/respondent, 1 witness was examined and the Award was marked as Ex.R.1. Having considered the above, the first appellate court enhanced the compensation to Rs.1,00,000/- per acre. Challenging the same, the appellants are now before this court with this second appeal.

4. I have heard the learned counsel for the appellants and the learned counsel for the respondent and also perused the records carefully.

5. The learned Government Advocate [CS] appearing for the appellants would submit that the first appellate court has relied on Exs.C.1 and C.2 which relate to Survey No.354/3. According to him, the land in S.No.354/3 is situated in a far off place and, therefore, the value of the land mentioned in those documents ought not to have been taken into consideration for enhancing the quantum of compensation. He would further submit that the document relied on by the land acquisition officer relates to Survey No.44 and the value mentioned therein is the reasonable cost of the land and further the said land is situated very nearer to the acquired by the State. Therefore, according to him the first appellate court ought not to have enhanced the award amount.

6. The learned counsel for the respondent would vehemently oppose this second appeal. According to him, the lands covered under Ex.C.1 and Ex.C.2 are abutting the main road and the land, which has been acquired, is situated very nearer to the



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property covered in these documents. Therefore, the first appellate court took these documents as the guiding documents to fix the value of the acquired land. So far as the land in S.No.44 is concerned, it is at far off place and, therefore, the cost of the land mentioned therein shall not be taken as market value for the purpose of fixing market value for the acquired land.

7. I have considered the above submissions carefully.

8. From the pleadings and the submissions made by the counsel on either side, the following substantial question of law has arisen for consideration:-

"Whether the first appellate court was right in taking the market value of the land comprised in S.No.354/3 as the representative value of the land for the purpose of fixing compensation for the land acquired?"

9. In my considered opinion, the answer to this question should only be in favour of the respondent. The first appellate court has perused the survey map of the village. I do have the benefit of perusing the same. The property acquired is situated on the east of the main road. The property comprised in S.No.354/3 and 390/1 are also situated abutting the main road. As a matter of fact, the land comprised in S.No.390/1 is situated just on the west of the main road like the property which has been acquired. The other property comprised in S.No.354/3 is also situated very nearer to the acquired land. That is the reason why, the first appellate court has taken the cost of the land as representative value for the purpose of fixing compensation for the acquired land.

10. The first appellate court has found that the land comprised in S.No.44/2 is at a far off place on the main road. On the western side, there are three survey fields in between the road and the land in S.No.44. That is the reason why, the first appellate court has not taken the value of the land in the S.No.44/2 to fix the value of the acquired land. The first appellate court has appreciated the facts properly and has come to the right conclusion which does not at all warrant any interference at the hands of this court. I hold that the compensation fixed by the first appellate court for the acquired land is very reasonable. In view of the above, this second appeal fails and the same deserves only to be dismissed.



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11. In the result, this second appeal is dismissed. No costs. Consequently, connected MP is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

kmk

To

The Subordinate Judge,
Harur, Dharmapuri District.

1 cc to Spl.G.P.(CS), Advocate, sr. 6610
1 cc to Mr.C.C. Chellappan, Advocate, sr. 6491

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