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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE **R. SUDHAKAR**

AND

THE HONOURABLE MS.JUSTICE **V.M.VELUMANI**

A.S. (MD) No.146 of 2014

and

M.P (MD) Nos.1 & 2 of 2015

and

M.P (MD) No.2 of 2014

The Revenue Divisional Officer,
(Land Acquisition)
Tirunelveli.

.. Appellant

vs.

- 1.R.Bagavathy Naicker
- 2.S.Sethuraj
- 3.S.Vivekanandan
- 4.Ayyalu Naicker,
- 5.K.Parvathi
- 6.A.Ramar
- 7.A.Balaraman
- 8.S.Krishnammal
- 9.P.Seethaiammal
- 10.S.Palanichamy
- 11.S.Jeyaram
- 12.K.Chinnasamy,
- 13.K.Subburam
- 14.S.Krishnasamy (Died)
- 15.K.Subbulakshmi
- 16.T.Ramasubbu Naicker
- 17.P.Parvathiammal
- 18.P.Sethuraj
- 19.P.Jeyaraman
- 20.P.Jegadeesan
- 21.S.Veerachamy
- 22.S.Amuthavalli
- 23.K.Varadhanayaki
- 24.K.Rajaram

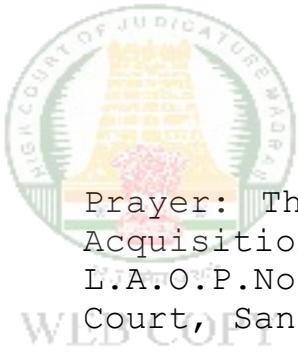
(Respondents 23 & 24 are brought on record

as Lrs of the deceased 14th respondent

<https://hcservices.courts.gov.in/hcservices/>

Vide Court order, dated 25.09.2015)

.. Respondents



Prayer: This First Appeal is filed under Section 54 of the Land Acquisition Act, 1856, to set aside the decree passed in L.A.O.P.No.1 of 2010, dated 26.04.2013 on the file of the Sub-Court, Sankarankovil and allow this appeal.

For Appellant : Mr.M.Alagethevan
Spl. Govt. Pleader
For Respondents : Mr.A.Sivaji

JUDGMENT

[Judgment of the Court was made by V.M.VELUMANI, J]

The present appeal is against the Award, dated 26.04.2013, made in L.A.O.P.No.1 of 2010 on the file of the Sub-Court, Sankarankovil.

2.The appellant is the respondent in L.A.O.P.No.1 of 2010, on the file of the Sub Court, Sankarankovil. The land in Survey No.96/1, with Well, belonged to first respondent and the lands in Survey No.96/2, 96/3, 98/1, 100, 101/2, 102/2, 103/2, 104/1, 123/1, 123/1B1, 123/1C1, belonged to respondents 2 to 22, were acquired for formation of Alamanaickenpatti Kanmai. After following due procedure, the Land Acquisition Officer, by award No.2 of 2004, dated 31.01.2005, passed an Award fixing compensation at Rs.12,350/- per hectare. The respondents, not being satisfied with the said Award, filed L.A.O.P.No.1 of 2010 before the (Land Acquisition Tribunal) Sub Court, Sankarankovil. The learned Sub Judge, Sankarankovil, by considering all the materials on record and the judgement relied on by the parties, fixed compensation at Rs.2,000/- per cent, for land and Rs.1,800/- towards solatium per cent, totaling Rs.3,800/- per cent.

3.The learned Sub Judge also granted a sum of Rs.2,00,000/- for the Well situated in the land in Survey No.96/1, belonged to the first respondent. Against the said judgment and decree, dated 26.04.2013, the appellant has come out with the present appeal.

5.The learned Special Government Pleader appearing for the appellant contended that the respondents have not let in any acceptable evidence to prove that the acquired lands have potentiality for being sold as house sites. No evidence or documents was produced before the learned Sub Judge to fix the compensation at Rs.3,800/- per cent. The learned Sub Judge has failed to note that the lands acquired under Award Nos.3/1994-95 and 1/1996-97 and the lands in question acquired in the present appeal are entirely different in nature and quality.



6.The learned Sub-Judge failed to properly consider and appreciate the evidence of R.W.1, Assistant Engineer, Public Works Department and the documents marked as Ex.R1 and R2. The learned Sub-Judge is not correct in awarding 10% appreciation value on Rs.2,000/- for 9 years. The learned Sub-Judge erred in awarding Rs.2,00,000/- for Well, situated in the land in Survey No.96/1 belonged to the first respondent. Therefore, he prayed for setting aside the judgment and decree passed in the L.A.O.P.No.1 of 2010, dated 26.04.2013.

7.Per contra, the learned counsel for the respondents contended that, respondents have let in acceptable evidence to substantiate their claim, for enhancement. The learned counsel for the respondents also contended that the lands in question are similar to Award Nos.3/1994-1995 and 1/1996-97. This Court has an occasion to consider the said amount of compensation in respect of similar lands and confirmed awarding compensation of Rs.3,800/- per cent in the Judgment rendered in A.S.No.178 of 1999, A.S.No.313/1999 and A.S.No.131 of 2013 and prayed for dismissal of the appeal.

8.We have heard the learned Special Government Pleader appearing for the appellant and respondents and perused the materials available on record and considered the judgments relied on by both sides.

9.The compensation fixed by the Tribunal in an identical matter has been accepted by this Court in A.S.No.313/1999 and A.S.No.178 of 1999. The lands in question in those cases and in this appeal are similar in nature. Further, this Court in A.S.No.131 of 2013, on 16.12.2013, followed the judgement rendered in A.S.No.178 of 1999 and A.S.No.313 of 1999. In the judgment, dated 16.12.2013, made in A.S.No.131 of 2013, the Division Bench of this Court held that no compensation can be paid for the Well situated in the land acquired and set aside that portion of the order alone and confirmed in respect of remaining portions of award.

10.The reasons given in the said judgment are squarely applicable to the facts of the present case. Applying the ratio in the judgment in A.S.No.178 of 1999 and A.S.No.313 of 1999 and A.S.No.131 of 2013, the compensation of Rs.2,00,000/- awarded for the Well alone is set aside. In all other aspects, the quantum of compensation fixed per cent by the Land Acquisition Tribunal, is confirmed.

<https://hcservices.courts.gov.in/hcservices/> this Appeal Suit is allowed in part without cost. The quantum of compensation fixed to the Well by the Land Acquisition Tribunal is alone set aside and in respect of



remaining portions of award, modification has not been made. Consequently, connected miscellaneous petitions are also closed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Sub Court, Sankarankoil

+1cc to Mr.A.Sivaji, Advocate Sr.No. 56664

+1cc to Spl.GOvernemnt Pleader Sr.No. 57115

am

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