

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2017

CORAM
THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.M.A.No.367 of 2015

Ganesan ... Appellant

Vs.

The Special Tahsildar,
Adi Dravidar Welfare, Vriddhachalam. ... Respondent

Civil Miscellaneous Appeal filed under Section 54 of the Land Acquisition Act against the judgment and decree of the Additional District Judge, Fast Track Court-III, Vriddhachalam in L.A.O.P.No.107 of 2003 dated 10.08.2006.

For Appellant : Mrs.AL.Gandhimathi

For Respondent : Mr.P.Gunasekaran,
Additional Government Pleader (AS)J U D G M E N T

Challenging the Award passed in L.A.O.P.No.107 of 2004 on the file of the Additional District Court, Fast Track Court-III, Vriddhachalam, the claimant has filed the above appeal for enhancement of compensation.

2.It is the case of the appellant that an extent of 1.80 acres in S.F.No.174/2 at Erumanur Village, Vriddhachalam Taluk was acquired for the purpose of Adi Dravidar Welfare House site by the respondent, by Section 4(1) Notification published in the Gazette on 07.03.1990. The

Acquisition Officer, by his Award dated 09.11.1990 in Award Proceedings No.2/1990-91, fixed the compensation for the acquired land at Rs.12,381/- per acre. Not satisfied with the Award passed by the respondent, the claimant sought for reference for enhancement of compensation. The Reference Court viz., the Additional District Court, Fast Track Court-III, Vriddhachalam in L.A.O.P.No.107 of 2003 fixed the value of the land at Rs.25,000/- per acre and awarded enhanced compensation of Rs.31,566/- together with interest at the rate of 9% per annum and if the Award amount is not paid within one year and from the date of expiry of one year, award interest at the rate of 15% per annum till the date of realisation. The Court below also awarded 15% solatium. Challenging the Award passed by the Court below, the claimant has filed the above appeal for enhancement of compensation.

3.Heard Mrs.AL.Gandhimathi, learned counsel appearing for the appellant and Mr.P.Gunasekaran, learned Additional Government Pleader (AS) appearing for the respondent.

4.The Reference Court, while arriving at the value of the land at Rs.25,000/-, took into consideration Ex.P1 Sale Deed dated 29.09.1990. As

per Ex.P1, the value of the land sold was Rs.30,000/- per acre. Though the Court below did not deduct any amount towards development charges, it had fixed the value of the land at Rs.25,000/- per acre. Apart from Ex.P1, the claimant has not produced any other document to establish that the value of the land would be more.

5.The learned Additional Government Pleader (AS) appearing for the respondent submitted that the land, which was sold under Ex.P1 Sale Deed, is 4 Km away from the acquired land, therefore, the value of the acquired land would be much less than the value mentioned in Ex.P1 Sale Deed.

6.Since the respondent has not filed any appeal as against the value fixed by the Court below, there is no scope for the respondent to seek for reduction in the value fixed by the Court below. It is needless to say that Ex.P1 Sale Deed dated 29.09.1990 is about six months after Section 4(1) Notification.

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7.On the side of the claimant, he was examined as C.W.1 and he had also deposed that the value of the land would be more than the amount fixed by the Acquisition Officer. The Tribunal, taking into consideration the value fixed under Ex.P1, had rightly fixed the value at Rs.25,000/- per acre.

8.Mrs.AL.Gandhimathi, the learned counsel appearing for the appellant submitted that the Court below should have awarded 30% solatium and 12% interest.

9.As already stated, the Court below had awarded only 15% solatium and 9% interest. Under the Land Acquisition Act, the claimant is entitled for 30% solatium and 12% interest. Therefore, the judgment and decree passed by the Court below should be modified to that effect. Accordingly, I confirm the value of the land fixed by the Court below at Rs.25,000/- per acre and enhance the rate fixed by the Court below towards solatium and interest to 30% and 12% respectively. In other aspects, the judgment and decree passed by the Court below are confirmed.

10.With these observations, the Appeal is partly allowed. No costs.

Index : No
Internet : Yes
Speaking order
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07.11.2017

To

The Additional District Judge,

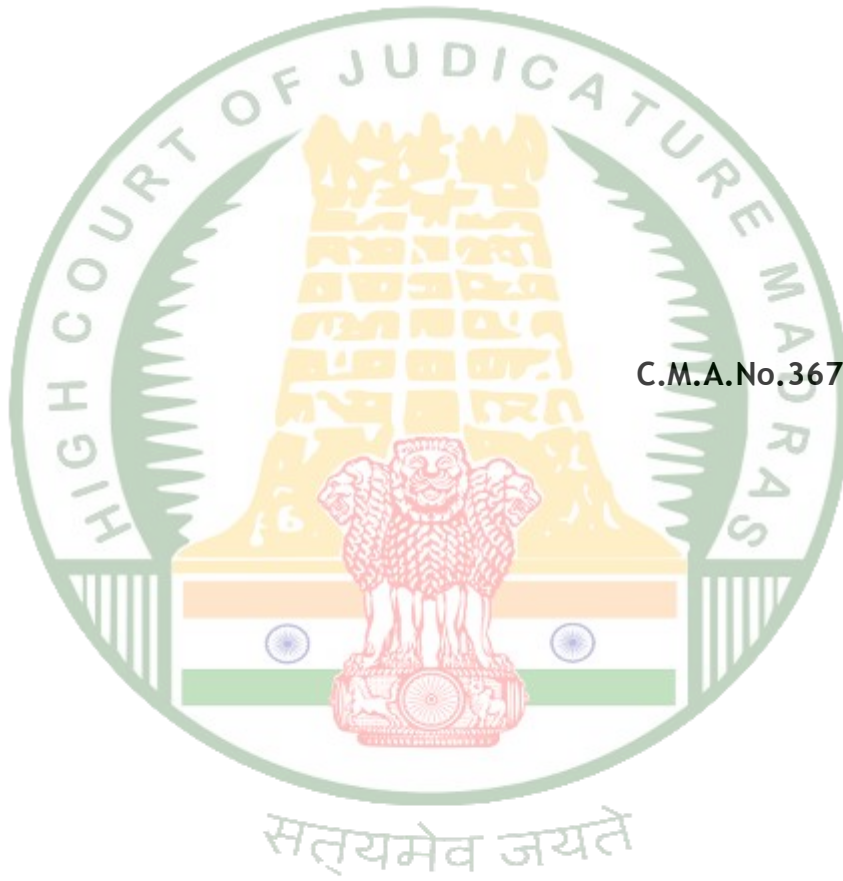
Fast Track Court-III,
Vriddhachalam.



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M.DURAISWAMY, J.

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