IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **18.11.2016**

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

Appeal Suit No.372 of 2008
& Cross Objection No.27 of 2010
& MP No.1 of 2008

A.S.No.372 of 2008:

The Special Tahsildar
(Adi Dravidar Welfare Department)
Tirupattur ... Appellant

Vs.

1. Manimikalai
2. S.Ravi
3. S.Sundar
4. S.Suguna
5. S.Sumathi
6. S.Suresh
7. S.Ramesh
8. S.Senthilkumar .. Respondents

Cross Objection No.27 of 2010:

1. Manimikalai
2. S.Ravi
3. S.Sundar
4. S.Suguna
5. S.Sumathi
6. S.Suresh
7. S.Ramesh

8. S.Senthilkumar ... Cross Objectors

Vs.

The Special Tahsildar
(Adi Dravidar Welfare Department)
Tirupattur .. Respondent

Prayer in Appeal Suit:- Appeal suit filed under Section 54 of the Land Acquisition Act against the judgment and decree, dated 1.7.2005, passed by the Sub Court, Tirupattur made in L.A.O.P.No.2 of 1999.

Prayer in Cross Objection:- Cross Objection filed under Order 41 Rule 22 of the Civil Procedure Code to set aside the order and decretal order made in LAOP No.2 of 1999 on the file of the Sub Court, Tirupattur dated 1.7.2005, in modification of the award passed by the Special Tahsildar, Adi Dravida Welfare Scheme, Tirupattur in Proceedings No.9/97-98 dated 24.3.1998 and direct the respondent to pay a sum of Rs.25/- per sq.ft for the acquired lands besides solatium at 30% and interest from 10.4.2006 deducting the amounts received under protest by the Cross Objectors already.

For Appellant in Appeal Suit & for respondent in Cross Objection :Mr.P.Gunasekaran, Special Govt.Pleader (AS)

For Respondents in Appeal Suit & for petitioners in Cross Objection :Mrs.Parveen

COMMON JUDGMENT

(Judgment of the Court was delivered by A.SELVAM,J.)

These Appeal Suit and Cross Objection have been directed against the award dated 1.7.2005, passed in L.A.O.P.No.2 of 1999, by the Land Acquisition Tribunal/Sub Court, Thirupattur, Vellore District.

2. The appellant herein, as Land Acquisition Officer, has acquired 2.30.5 Hectares of lands, out of 5.65.5 Hectares in Survey No.159/2, Nayana Cheruvu Village, Tirupathur Taluk, Vellore District for the purpose of converting the same into the various house plots so as to give to Harijans. The Land Acquisition Officer has awarded a sum of Rs.8/- per sq.ft. The respondents/claimants having aggrieved at the rate fixed by the Land Acquisition Officer have given an objection. Under such circumstances, a reference has been made under section 18(1) of the Land Acquisition Act, 1894 and the same has been taken on file in LAOP No.2 of 1999.

3. The Land Acquisition Tribunal/Sub Court, Vellore, after considering the rival evidence available on record, has fixed a sum of Rs.12/- per sq.ft by way of passing the impugned award. The award passed by the Land Acquisition Tribunal is being challenged in the present appeal suit as well as Cross Objection.

4. The learned Special Government Pleader appearing for the appellant has contended to the effect that the land in question has been classified as Nanja land and since the same has been acquired for the purpose of converting into house plots, huge amounts have to be spent towards improvements. Under such circumstances, the Land Acquisition Officer has rightly awarded Rs.8/- per sq.ft, but the Land Acquisition Tribunal, without considering the documents filed on either side, has erroneously fixed Rs.12/- per sq.ft and therefore, the award passed by the Land Acquisition Tribunal is liable to be modified.

5. Per contra, the learned counsel appearing for the cross objectors/respondents/claimants has also equally contended that Ex.R.2 has come into existence on 24.4.1995, wherein a small portion of the property has been sold as house site. Even under Ex.R.2, one square feet of land has been sold for Rs.19/- and the land in question has been acquired only for the purpose of converting into house plots. Since the land in question has been acquired only for the purpose of converting into house plots, the same is having potential value, but the Land Acquisition Officer has erroneously fixed Rs.8/-

per sq.ft and the Land Acquisition Tribunal, even without considering the documents filed on the side of the claimants, has erroneously fixed Rs.12/- per sq.ft. Under such circumstances, the compensation can be fixed at Rs.25/- per sq.ft.

6. It is an admitted fact that the land in question is comprised in Survey No.159/2 and the same has been acquired only for the purpose of converting into house plots so as to give the same to Harijans. Further, it is an admitted fact that the acquired land has been classified as Nanja land.

7. On the side of the Land Acquisition Officer, Ex.R.2 has been filed and the same has come into existence on 24.4.1995, whereas 4(1) Notification has been given on 10.4.1996. Further, under Ex.R.2, a portion of land comprised in Survey No.159/1 has been sold for a sum of Rs.19/- per sq.ft. Since the very adjacent land has been conveyed under Ex.R.2 even prior to publication of 4(1) Notification, the value fixed therein can be taken for fixing the value of the acquired land.

8. On the side of the Land Acquisition Officer, a combined

sketch has been filed as Ex.R.3. In fact, this Court has looked into the same and ultimately found that both the acquired land as well as the land conveyed under Ex.R.2 are nothing but contiguous properties. Therefore, as pointed out earlier, the value fixed under Ex.R.2 can be a basis for fixing the value of acquired land.

9. It has already been pointed out that under Ex.R.2 one Square feet has been sold at Rs.19/-, but the Land Acquisition Officer, without giving proper reasons, under the guise of development charges, reduced to Rs.11/- and awarded a sum of Rs.8/- per sq.ft. The Land Acquisition Tribunal, even without looking into the juxtaposition of the acquired land as well as the land mentioned in Ex.R.2, has erroneously fixed at Rs.12/- per sq.ft.

10. It is an admitted fact that the acquired land has been classified as Nanja land and the same has been acquired only for the purpose of converting into house plots so as to give Harijans. Therefore, it is quite clear that the acquired land is fit for putting up construction. Even though the land acquired is fit for putting up construction, considering its classification, some amounts have to be

spent towards development charges. Under the said circumstances, this Court is of the view that 20% of development charges can be deducted from the amount fixed in Ex.R.2.

11. As adverted to earlier, one square feet of land has been sold at Rs.19/- in respect of the land mentioned in Ex.R2. After deducting 20% from Rs.19/-, it comes to Rs.15.20 and the same can be rounded off to Rs.15/-. Therefore, the respondents/cross objectors/claimants are entitled to get Rs.15/- per sq.ft. With the above observations, the appeal is liable to be dismissed and the cross objection is liable to be allowed.

In fine, the **appeal suit is dismissed without cost**. The **Cross Objection is allowed without cost**. The award passed in LAOP No.2 of 199 is modified as follows:

> "The cross objectors/claimants are entitled to get Rs.15/- per sq.ft. In other aspects, the award passed by the Land Acquisition Tribunal is confirmed."

No costs. Consequently, the connected Miscellaneous Petition is closed.

(A.S.J.,) (P.K.J.)
18.11.2016

Index:Yes/no
ajr
To

1. Sub Court, Tirupattur

2. The Special Tahsildar
(Adi Dravidar Welfare Department), Tirupattur

A.SELVAM,J.
and
P.KALAIYARASAN,J.
ajr

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