4IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

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

Appeal Suit No.903 of 2010
and
M.P.No.1 of 2010

The Special Tahsildar,
Adi-Dravidar Welfare,
Salem ..Appellant/Referring Officer

Vs

1.Palanisamy
2.Kumarasamy ..Respondents/Claimants

Prayer:- Appeal suit filed under Section 54 of the Land Acquisition Act against the judgment and decree, dated 18.12.2009, passed by the First Additional Sub Court, Salem, in L.A.O.P.No.3 of 2001.

For Appellant :Mr.P.Gunasekaran, A.G.P.
Spl. G.P.(AS)

For Respondents :Mr.P.Jagadeesan

JUDGMENT

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

Challenge in this appeal suit is to the award dated 18.12.2009, passed in L.A.O.P.No.3 of 2001, by the Land Acquisition Tribunal/First Additional Sub Court, Salem.

2. The appellant herein, as Land Acquisition Officer, has acquired the lands comprised in Survey Nos.78/1A and 80/2B, ad-measuring 3.41 acres, for the purpose of converting the same into house plots, so as to give to homeless persons and awarded a compensation of Rs.39,706/- per acre. Having aggrieved at the rate fixed by the Land Acquisition Officer, a reference has been made under section 18 of the Land Acquisition Act, 1894, before the Land Acquisition Tribunal and the same has been taken on file in LAOP No.3 of 2001.

3. On the side of the claimants, a claim statement has been filed, wherein it has been contended inter alia to the effect that except the lands acquired, the claimants are not owning any other immovable properties and further, near the lands acquired, one square feet of land has already been sold

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for a sum of Rs.50/- and the Land Acquisition Officer has awarded a meager amount; under the said circumstances, it is prayed to award Rs.50/- per square feet.

4. The Land Acquisition Tribunal, after considering the divergent evidence available on record, has awarded a sum of Rs.13/- per square feet with other statutory benefits, by way of passing the impugned award and the same is being challenged in the present appeal suit.

5. The learned Special Government Pleader has repletedly contended that before acquisition, a Notification under Section 4(1) of the Land Acquisition Act, 1984 has been given on 28.10.1998 and Ex.C1 has come into existence on 30.12.1996, wherein, a smaller extent (house site) has been sold for a sum of Rs.16.50p. per square feet and the Land Acquisition Tribunal, without deducting anything towards development charges has simply awarded a sum of Rs.13/- per square feet and therefore, the quantum of compensation fixed by the Land Acquisition Tribunal is liable to be modified.

6. The learned counsel appearing for the respondents/claimants has also equally contended to the effect that Ex.C1 has come into existence even prior to issuance of Section 4(1) Notification, on 28.10.1998, and since under Ex.C1, a smaller extent has been sold as house site, the Land Acquisition Tribunal has given 20% deduction towards development charges and after deducting the same, the Land Acquisition Tribunal has rightly fixed a sum of Rs.13/- per square feet and therefore, the quantum of compensation fixed by the Land Acquisition Tribunal need not be modified.

7. It is an admitted fact that the lands comprised in Survey No.78/1A and 80/2B, Akkarapalayam Village, Salem Taluk, Salem District, have been acquired for the purpose of converting the same into house plots, so as to give to houseless persons. It is also equally an admitted fact that Land Acquisition Officer has awarded a sum of Rs.39,706/- per acre. The Land Acquisition Tribunal has awarded a sum of Rs.13/- per square feet by way of compensation.

8. The main gravamen expressed on the side of the appellant/Land Acquisition Officer is since under Ex.C1, a smaller extent has been sold, on the basis of Rs.16.50p. per square feet, some more deduction has to be given. The Land Acquisition Tribunal has awarded only 20% deduction towards development charges.

9. As adverted to earlier, Section 4(1) Notification has been issued on 28.10.1998, whereas Ex.C1 has come into existence on 30.12.1996.

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10. It is true that under Ex.C1, a smaller extent in the form of house site has been sold on the basis of Rs.16.50p. per square feet. The Land Acquisition Tribunal has deducted 20% out of Rs.16.50 p. towards development charges and ultimately fixed a compensation of Rs.13/- per square feet. Further, under Ex.C1, Survey No.105/4B has been sold and the same is also situate in Akkarapalayam Village. Since the lands acquired are comprised in Survey Nos.78/1A and 80/2B and since the land mentioned in Ex.C1 is comprised in Survey No.105/4B, this Court is of the view that the value mentioned in Ex.C1 can be a basis for fixing compensation to the acquired lands.

11. It has already been pointed out that under Ex.C1, one square feet of land has been sold for Rs.16.50 p. As rightly pointed out on the side of the appellant/Land Acquisition Officer, under Ex.C1, a smaller extent has been sold. Considering the fact that under Ex.C1, a house site (smaller extent) has been sold, the Land Acquisition Tribunal has rightly deducted 20% towards development charges, from Rs.16.50p. Since the Land Acquisition Tribunal has already deducted 20% towards development charges and since the classification of acquired lands as well as data land is one and the same, this Court is of the view that further deduction is totally unwarranted and therefore, the contentions put forth on the side of the appellant/Land Acquisition Officer cannot be accepted and altogether the present appeal suit deserves to be dismissed.

In fine, this Appeal Suit is dismissed without cost. The award passed by the Land Acquisition Tribunal, in L.A.O.P.No.3 of 2001, is confirmed. Connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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To
1.The First Additional Sub Court,Salem.
2. The Record Keeper, VR Section, High Court, Madras.

+ 1 cc to Mr.P. Jagadeesan, Advocate Sr.69040
+ 1 cc to the Government Pleader Sr.69139

Appeal Suit No.903 of 2010

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