

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P.(NPD) No.483 of 2008
and
M.P.No.1 of 2008

The Special Tahsildar,
ADW, Tirupattur.

... Petitioner

vs.

1.Chennavelan Gounder
2.Devendran

... Respondents

Civil Revision Petition filed under Section 13 of the Tamil Nadu Acquisition of Land for ADW Schemes Act 31/78 r/w section 115 of C.P.C., against the Judgment and Decree dated 17.6.2005 made in LA.A.No.9 of 2004 dated 17.6.2005 on the file of the Subordinate Court, Tirupattur, Vellore District, modifying the award made in Award No.34/96-97 dated 27.3.1997 passed by the Special Tahsildar (ADW), Tirupattur.

For Petitioner : Mr.Venugopal,
Special Government Pleader

For Respondents : Mr.P.S.Kothandaraman

ORDER

This Civil Revision Petition arises against the Judgment and Decree made in LA.A.No.9 of 2004 dated 17.6.2005 on the file of the Subordinate Court, Tirupattur, Vellore District, modifying the award made in Award No.34/96-97 dated 27.3.1997 passed by the Special Tahsildar (ADW), Tirupattur.

2. According to Mr.Venugopal, learned Special Government Pleader, appearing for the revision petitioner, an extent of land measuring 4816.14 sq.ft. in S.No.303/2C, 1076.92 sq.ft. in S.No.303/1E2, 1256.40 sq.ft. in S.No.332/3B, totalling to 7179 sq.ft. of land in Ammanaghkoil Village, Tirupattur Taluk, Vellore District, was sought to be acquired for the provision of house sites to Adi Dravidars of Nayanathiyur Village under the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. In pursuance of the same, section 4(1) notification was issued on 10.12.1996. After adhering to all the statutory provisions of the Act 31/78, an award came to be passed by the petitioner herein in Award No.9/1996-97 dated 27.3.1997 fixing the value for the land prevailing at that point of time. Aggrieved by the fixing of market value, the respondents herein filed L.A.A.No.9/2004 on the file of the Subordinate Court, Tirupattur, seeking for enhancement of market value. The Court below by its judgment dated 17.6.2005 enhanced the award amount, which resulted in huge

enhancement of the award amount. Aggrieved by the same, the Special Thasildar, Adidravidar Welfare, Tirupattur/revision petitioner filed this Civil Revision Petition.

3. The learned Special Government Pleader, appearing for the revision petitioner would further submit that without rendering any finding as to the inapplicability of the data sale deed to the land acquired, the Subordinate Judge, Tirupattur, enhanced the market value to Rs.6/- per sq.ft.,. The land conveyed under the said document is classified as house site whereas the present land lies in an undeveloped area. Without taking such fact into consideration, the Court below, after taking the market value for the land acquired at Rs.6/- per sq.ft. and giving 1/3rd deduction towards development charges, fixed the market value at Rs.4/- per sq.ft.. The Court below awarded interest at the rate of 9%, 12% and 15% p.a., for the different periods when the statutory provisions of the Tamil Nadu Act 31 of 1978 only contemplates awarding interest at the rate of 6% p.a.,. Now, the main contention of the revision petitioner is that the interest awarded on the award amount is very much on the higher side and and is contrary to the provisions of the Act and it has to be reduced to 6% p.a., in consonance with the provisions of the Act.

4. Mr. P.S.Kothandaraman, learned counsel for the respondents has also not disputed the fact that as per **Section 12 of Tamil Nadu**

Acquisition of Land for Harijan Welfare Schemes Act, 1978, the rate of interest fixed is 6% p.a., from the date of taking possession till the award amount is paid or deposited in the Court below in favour of the claimants.

5. Heard Mr.Venugopal, learned Special Government Pleader, appearing for the revision petitioner and Mr.P.S.Kothandaraman, learned counsel appearing for the respondent.

6. With regard to the point raised in the grounds of revision petition by the revision petitioner that the Court below has erroneously enhanced the compensation, it is pertinent to state that in respect of a connected acquisition, namely, L.A.A. No.8/2004, aggrieved by the enhancement of compensation, Second Appeal No.13 of 2009 preferred by the Department vide judgment and decree of the Subordinate Court, Tirupattur, Vellore, dated 17.6.2005 was dismissed by this Court with an observation that "inasmuch as LA.A.No.9/2004, a common judgment was rendered along with L.A.A.No.8/2004 and an enhanced amount was given after a joint trial and the parties in both appeals were the same, the appellant should have challenged the judgment and decree in L.A.A.No.9/2004 dated 17.6.2005 before an appropriate forum. In the absence of any challenge to that portion of the judgment, the present Second Appeal is also liable to be dismissed as as that portion of the judgment and the consequential decree has become final." In view of such observation,

there cannot be any dispute with regard to the enhanced compensation. Therefore, the only point now urged before this Court by the revision petitioner is to reduce the interest rate prescribed on the award amount.

7. In the light of the provisions of **Section 12 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978**, the Judgment and Decree dated 17.06.2005 made in LA.A.No.9 of 2004 by the Subordinate Court, Tirupattur, Vellore District, is modified fixing the rate of interest at 6% p.a., alone and the said interest is applicable from the date of taking possession of the land till the award amount is paid or deposited in the Court below.

8. Accordingly, the Civil Revision Petition is allowed. The connected Miscellaneous Petition is closed. No costs.

29.04.2016

Index : yes / no

Internet :yes / no
asvm

To

1. The Subordinate Court,
Tirupattur, Vellore District.

2.The Special Tahsildar (ADW),
Tirupattur.

D.KRISHNAKUMAR, J.

(asvm)

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