

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

Second Appeal Nos.459 to 462 of 2016
and
C.M.P.Nos.7742 to 7745 of 2016

The Land Acquisition Officer/
Special Tahsildar,
Adi Dravidar Welfare,
Ulundurpet.

... Appellant in all the Appeals/
Respondent/Referring Officer

Vs

Saravanan

... Respondent/Appellant/Claimant
in S.A.No.459 of 2016

Murugaiya

... Respondent/Appellant/Claimant
in S.A.No.460 of 2016

Settu

... Respondent/Appellant/Claimant
in S.A.No.461 of 2016

Mannikammal

... Respondent/Appellant/Claimant
in S.A.No.462 of 2016

Second Appeals filed under Section 13 of the Tamil Nadu Acquisition of Land for ADW Schemes Act 31 of 1978 r/w Section 100 C.P.C. against the judgment and decree dated 18.01.2016 made in L.A.C.M.A.Nos.1, 8, 9 and 10 of 2003 on the file of the II Additional Sub Court, Villupuram, modifying the award dated 03.02.1997 passed by the Land Acquisition Officer/Special Tahsildar, Adi Dravidar Welfare, Ulundurpet in Award No.10/1996-97.

For Appellant : Mr.T.Jayaramaraj,
Government Advocate
in all the appeals

For Respondent : Mr.R.Balakrishnan
in all the appeals

COMMON JUDGMENT

In view of the commonality of the issue involved, these appeals are taken up together and disposed of by a common judgment.

2. Being aggrieved against the judgment and decree rendered by the Court below, in which, the award granted by the appellant has been enhanced, these appeals have been filed. The following substantial question of law is the one to be decided in these appeals:

Is not the Court below committed an error of law in granting a decree more than what has been sought for by the respondents themselves?

3. After framing the above substantial question of law, this Court has permitted the learned counsel appearing for the parties to answer the same.

4. Learned Government Advocate appearing for the appellant submits that the claim has been made by the respondents at Rs.2,000/- per cent. However, placing reliance upon Ex.A3, without any application seeking enhancement, it has been granted at Rs.2,500/- per cent.

5. Learned counsel appearing for the respondents submits that inasmuch as the document filed under Ex.A3 has not been disputed, there is no error in the Award passed and thus no interference is required.

6. The acquisition has been made for a larger extent. Ex.A3 is one of the many documents filed by the respondents. In fact, as per the other documents filed, it could be seen that they have been registered for a lesser amount. When the respondents themselves have sought for a sum of Rs.2,000/- per cent, the Court below ought not to have granted an excess amount. As discussed above, Ex.A3 is only for lesser amount. It is no doubt true that an exemplar, which is more beneficial to the claimant, will have to be taken into account by the Court. However, in a case, where the claimants themselves have sought for only lesser amount, the Court will have to vary and give sufficient reasons before proceeding to consider the enhancement, especially, when the other documents do not support the case of the claimants. Admittedly, in the case on hand, no application has been filed seeking amendment for enhancement. It is also not in dispute that the acquired lands are agricultural lands. Thus the finding given by the Court below by treating the same as the one meant for the housing purposes also cannot be sustained. No other

contention is raised with respect to the interest component and solatium. Even before this Court, no application has been filed, seeking enhancement.

7. Accordingly, the substantial question of law is answered in favour of the appellant by modifying the judgment and decree dated 18.01.2016 made in L.A.C.M.A.Nos.1, 8, 9 and 10 of 2003 on the file of the II Additional Sub Court, Villupuram and the market value of the land is fixed at Rs.2,000/- per cent. In all other respects, the judgment and decree of the Court below stands confirmed. The appellant will have to comply with the order of the Apex Court in making the deposit and payment to the respondents.

8. In the result, the second appeals are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The II Additional Subordinate Judge,
Villupuram.

2. The Land Acquisition Officer/
Special Tahsildar,
Adi Dravidar Welfare,
Ulundurpet.

+1cc to Mr.R.Balakrishnan, Advocate, S.R.No.74709

+1cc to the Special Government Pleader(CS), S.R.No.74661

S.A.Nos.459 to 462 of 2016

GJ II(CO)
CA(27.01.2017)

WEB COPY