



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Second Appeal (MD) No.543 of 2016
and
C.M.P.(MD)No.7084 of 2016

1. The Special Tahsildar (Adi Dravidar Welfare)
and Land Acquisition Officer,
Padmanabhapuram at Thuckalay,
Kanyakumari District.

2. The District Collector,
Kanyakumari District
at Nagercoil.

... Appellants/Respondents

-Vs-

Ammini George

... Respondent/Appellant

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code, praying to set aside the judgment and decree in L.A.A. No.1 of 2001 dated 21.08.2009 on the file of the Sub Court, Kuzhithurai, allow the appeal.

For Appellants : Mr.S.Sathish Kumar
Additional Government Pleader

For Respondent : Mr.V.M.Balamohan Thambi

JUDGMENT

This appeal is directed against the judgment and decree of Sub Court, Kuzhithurai in LAA No.1 of 2001 preferred against the award of the Special Tahsildar (Adi Dravidar Welfare) and Land Acquisition Officer, Padmanabhapuram.

2.The Land Acquisition Officer has fixed compensation at the rate of Rs.1,438/- per cent on the basis of the documents in respect of land which was located 1.6 kilometers away from the acquired land. The award of the Land Acquisition Officer was challenged by the claimant / respondent before the Sub Court,



Kuzhithurai. The Land Acquisition Tribunal fixed compensation at the rate of Rs.5,000/- per cent and modified the award of the Land Acquisition Officer. Aggrieved by the same, the Government has filed the present Second Appeal.

3.It is not in dispute that the extent of 190 cents belonging to the respondent was acquired under the Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act. It is not in dispute that 4(1) notification was published on 28.03.2000.

4.It can be seen that the Land Acquisition Officer has fixed the compensation at the rate of Rs.1,438/- per cent only on the basis of the sale deed which was a document pertaining to land located 1.6 kilometer away from the acquired land.

5.Before the lower Court, the claimant / respondent has produced the documents namely the sale deed dated 26.10.1999 and another sale deed dated 16.08.1999 as Ex.C4 and Ex.C5. The Court below considering the documents came to the conclusion that though the market value of the lands dealt with in those documents is Rs.10,000/- per cent, awarded only a sum of Rs.5,000/- per cent for the acquired land. The claimant is entitled to compensation at market value and the value has to be assessed as on the date of 4(1) notification. It is also not disputed that the documents Ex.C4 and Ex.C5 are long prior to the date of 4(1) notification. There is no illegality or infirmity in relying upon the two sale deeds which were executed much prior to the 4(1) notification. Though the learned Additional Government Pleader submitted that the documents filed by the claimant were not proved, in the manner known to law, the said contention cannot be sustained having regard to the settled position that such sale deeds need not be proved by examining the parties to them. The appellants have not been vigilant in bringing any evidence contra. Even the claimant was not cross-examined properly suggesting that Ex.C4 and Ex.C5 are fictitious transactions. The lower Court on proper appreciation of evidence found that the acquired land is near road and that they are capable of being used as house site. This Court finds no legal infirmity in the findings of Sub Court on the market value.

6. For the above reasons, this Second Appeal is dismissed. However, there is no orders as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To

1. The Subordinate Judge, Kuzhithurai.

2. The District Collector,
Kanyakumari District at Nagercoil.

3. The Special Tahsildar (Adi Dravidar Welfare)
and Land Acquisition Officer,
Padmanabhapuram at Thuckalay,
Kanyakumari District.

+ 1 CC TO Mr.V.M.BALAMOHAN THAMBI, ADVOCATE IN SR No. 53088

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 52870

SRM

TE/PV : 16/11/2016 : 3P/6C

Judgment made in
Second Appeal (MD) No.543 of 2016
and
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15.09.2016