

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

Second Appeal No. 596 of 2017
and
C.M.P No.14899 of 2017

1. The Collector
Cuddalore District
Cuddalore.
 2. The Special Tahsildar
Adi Dravidar Welfare
Vridhachalam ..Appellants/Referring Officer,
- vs.
- Samydurai Udaiyar ..Respondent/Claimant

PRAYER : This Second Appeal is filed under Section 13 of the Tamil Nadu Acquisition of Land for ADW Schemes Act, 31/78 r/w.Section 100 C.P.C., against the Judgment and decree dated 03.01.2013 made in C.M.A. No.1/ 1998 on the file of the Principal Subordinate Judge, Vridhachalam, modifying the award dated 29.12.1997 passed by the Special Tahsildar, Adi Dravidar Welfare, Vridhachalam in Award No.8/1997-98 .

For Appellants Mr. T. Jayarama Raj
Government Advocate (CS)

For Respondents ... Mrs. R. Meenal

J U D G M E N T

This Second Appeal arises out of the Judgment and decree dated 03.01.2013 made in C.M.A. No.1/ 1998 on the file of the Principal Subordinate Judge, Vridhachalam, modifying the award dated 29.12.1997 passed by the Special Tahsildar, Adi Dravidar Welfare, Vridhachalam in Award No.8/1997-98.

2. Brief facts of the case is as follows :-

The schedule mentioned properties, measuring to an extent of 2.43.5 hectare of land in R.S. No. 129/3., etc., situated in M.Parur Village, Virudhachalam Taluk, Cuddalore

District, belonging to the appellant, was acquired by the 2nd respondent, for the purpose of providing free house sites to homeless Adi Dravidars under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. After issuance of notice under Section 4(1) of the Act, notification was also published on 17.03.1997. The Land Acquisition Officer fixed the market value of the acquired land at the rate of Rs.396/- per cent based on a sale deed dated 14.11.1996, registered as Document No.1188 on the file of the Sub Registrar, Mangalampettai. The Land Acquisition Officer fixed the total market value of the land at Rs.4,05,495/- including solatium and interest vide Award No.8 of 1997-1998 dated 29.12.1997, for the land compulsorily acquired from the respondent herein. Not satisfied with the quantum of compensation and complaining that the compensation awarded by the Land Acquisition Officer was insufficient, the respondent filed an appeal in C.M.A. No. 1 of 1998 on the file of the Principal Sub Court, Vridhachalam under Section 9 of the said Act. After considering the oral and documentary evidences, the Principal Sub Court, Vridhachalam, allowed the appeal holding that the market value fixed by the Land Acquisition Officer was not correct and awarded enhancement of compensation fixing the market value of the property at Rs.1250/- per cent, based on a sale deed dated 19.12.1995 in respect of 0.40 cents of land being part of land comprised in Survey No.116/3, adjacent to the petitioner's property. The Appellate Court determined the enhanced compensation for the acquired land as Rs.7,51,250/- for the entire extent at the rate of Rs.1250/- per cent. Further, calculated the statutory benefits, namely solatium Rs.2,25,375/- @ 30% and interest Rs.1,77,045/- on the enhanced amount of compensation @ 12% per annum, for the period i.e. date of notice 12.01.1996 to the date of award 29.12.1997 and passed a decree enhancing the total compensation amount as Rs.11,53,670/-. It was further directed that after deducting the previous amount of Rs.4,05,495/- the balance enhanced amount to be paid to the claimant/respondent, with a further interest of 15% from the date of award till realisation. Challenging the above said compensation amount of the lower Appellate Court, the department has filed this Second Appeal before this Court.

3. Mrs. R. Meenal has filed vakalat on behalf of the sole respondent and undertakes to argue the case. With the consent of both the parties, the appeal is taken up for disposal at the stage of admission itself, based on the Memo of Calculation filed by the learned counsel for the respondent.

4. During the previous hearing, the learned Government Advocate submitted that the Appellate Court has failed to consider the ratio laid down by the Hon'ble Supreme Court in the case of Atma Singh (Dead) through LRs & Ors., v. State of Haryana & anr., reported in (2008) 2 SCC 568 and in the case of Iyasamy & anr., v. Special Tahsildar, Land Acquisition reported in (2010) 10 SCC 464, wherein the deduction towards development charges is 20% to 50% for acquisition of large extent of lands. The solatium granted by the lower Appellate court is contrary to the provisions of the Act. The learned counsel for the respondent, fairly conceded the above contentions of the learned counsel for the appellants.

5. Today, the learned counsel for the respondent submitted a Memo of Calculation dated 06.09.2017, before this Court. The said memo is accepted and received by the appellant department. The learned Appellate Court has fixed the compensation at the rate of Rs.1250/- per cent, on the basis of Ex.Pl. The same is accepted by the appellants. However, following the principles laid down by the Hon'ble Supreme Court, both the parties accept to make a deduction of 20% towards development charges, for the larger extent of land acquired by the department. As per the revised calculation, accepted by both the parties, the revised rate of Rs.1250 for 6 acres and 1 cent (601 cents) is Rs.7,51,250/- From which 20% deduction is made and so the compensation amount arrives as Rs.6,01,000/-. By adding 15% for solatium (Rs.90,150/-) and well & motor (Rs.1,28,000/-) the amount is Rs.8,19,150/-. After deducting the claim of Rs.4,05,938/- that has been already received by the respondent, the balance is Rs.4,13,212/-. By adding interest at the rate of 6% from 12.02.1996 to 12.09.2017 and for 7 more months, the total compensation is arrived at Rs.9,23,082/-.

6. The learned Government Advocate, on instructions, accepted the above memo of calculation submitted by the learned counsel for the respondent. Mr. Swamikannu, the Special Tahsildar, who was present in the court representing the respondents, undertakes that the aforesaid enhanced compensation amount, would be settled to the respondent, within a period of twelve weeks from the date of receipt of a copy of this order. Hence, the judgment and decree dated 03.01.2013 made in C.M.A. No.1/ 1998 on the file of the Principal Subordinate Judge, Vridhachalam, modifying the award dated 29.12.1997 passed by the Special Tahsildar, Adi Dravidar Welfare, Vridhachalam in Award No.8/1997-98 is modified, accordingly. The Memo of calculation dated 06.09.2017 shall form part of the records.

7. The Second Appeal is partly allowed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Subordinate Judge,
Vridhachalam.
2. The Special Tahsildar,
Adi Dravidar Welfare,
Vridhachalam.
3. The Collector, Cuddalore District,
Cuddalore.

+ 1 cc to Ms. R. Meenal, Advocate Sr.64655
+ 1 cc to Special Government Pleader Sr.64746

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