

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM:

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

S.A.No.137 of 2012 and S.A.No.598 of 2013

S.A.No.137 of 2012:

1. K.G.Sridharan
 2. K.G.Raghunathan
 3. P.Babu
- ... Appellants/Claimants

vs.

1. The Special Tahsildar (A.D.W.)
Land Acquisition Officer,
Taluk Office Campus,
Gudiyattam,
Vellore District.
 2. The District Adi-Dravidar
Welfare Officer,
Collectorate Campus,
Vellore - 9.
 3. The District Collector,
Vellore District,
Vellore - 9.
- ... Respondents

S.A.No.137 of 2012 filed under Section 100 C.P.C. r/w Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Act, against the judgment and decree dated 20.06.2011 made in L.A.C.M.A.No.5 of 2007 on the file of the Sub-Court at Vellore, enhancing the compensation amount awarded by the original Authority made in Award No.13/97-98 (R.C.A.No.1929/95), dated 25.03.1998.

S.A.No.598 of 2013

1. The Special Tahsildar (A.D.W.)
Land Acquisition Officer,
Taluk Office, Gudiyattam,
Vellore District.
- ...1st Appellant/Land
Acquisition Officer

2. The District Adi-Dravidar
Welfare Officer,
Collectorate Campus,
Vellore - 9.

3. The District Collector,
Vellore District,
Vellore - 9.

... Appellants/Respondents

vs.

1. K.G.Sridharan
2. K.G.Raghunathan
3. P.Babu

... Respondents/Claimants

S.A.No.598 of 2013 filed under Section 100 C.P.C. r/w Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Act, against the judgment and decree dated 20.06.2011 made in C.M.A.No.5 of 2007 on the file of the Sub-Court, Vellore, modifying the Award No.13/1997-98, dated 25.03.1998 passed by the Special Tahsildar, Adi Dravidar Welfare, Gudiyattam, Vellore District.

For Appellants in S.A.No.137 of 2012
& Respondents in S.A.No.598 of 2013 : Mr.G.Rangarajan

For Appellants in S.A.No.598 of 2013
& Respondents in S.A.No.137 of 2012 : Mr.T.Jayaramaraj,
Government Advocate (CS)

C O M M O N J U D G M E N T

As the issue involved in both the appeals is one and the same, the cases are taken up for disposal by a common judgment.

2. The Land Acquisition Officer/Special Tahsildar (ADW), Gudiyattam, Vellore District passed an Award in Award No.13/97-98 on 25.03.1998 fixing a sum of Rs.83,110/- as compensation to the claimants for the land acquired under Adi Dravidar Welfare Scheme. Seeking enhancement of compensation, the claimants went on appeal before the Subordinate Court, Vellore in L.A.C.M.A.No.5 of 2007 and the First Appellate Court, by a judgment and decree dated 20.06.2011, enhanced the compensation to a sum of Rs.5,75,729/- (inclusive of 15% solatium) along with interest at 6% per annum from the date of Award till the date of deposit. Aggrieved by the said judgment, the appellants in S.A.No.137 of 2012, i.e. the claimants, are before this Court seeking enhancement of compensation and the appellants in

S.A.No.598 of 2013 are before this Court seeking to set aside the same.

3. According to the learned counsel for the appellants in S.A.No.137 of 2012, who are the claimants, both the Original Authority as also the First Appellate Court have awarded a very meagre compensation to the claimants in respect of the land acquired, without taking into account the prevailing market value of the lands situated in the surrounding area of the land acquired by the authorities under ADW Scheme. It is his further contention that the Original Authority has awarded a very low solatium amounting to only Rs.10,840/-, however, the First Appellate Court has not awarded any solatium.

4. On the other hand, learned Government Advocate contended that the First Appellate Court, upon an erroneous consideration, had placed undue reliance on Exhibits A12 and A13 filed by the claimants in arriving at the enhanced compensation. According to him, at any rate, the Court below ought not to have enhanced the compensation by five times, i.e. from Rs.83,110/- to Rs.5,72,904/-.

5. This Court, on 21.02.2012, while admitting the Second Appeal in S.A.No.137 of 2012, framed the following substantial questions of law:

(i) The First Appellate Court has totally failed to consider the importance of the material documents, viz. the guideline value Certificates issued by the Registration Department, which were marked as Exhibits A8, A9 and A10 before the said Court in the impugned L.A.C.M.A.No.5 of 2007, wherein, the value of the land acquired by the State Government has been given as very high than the value mentioned in the impugned judgment;

(ii) Both the Lower authority and the First Appellate Court have totally failed to consider the real loss incurred by the appellants since the land acquired by the State Government is a land, wherein already the same State Government has granted licence to put up an industry, thereby the appellants.

6. Heard the learned counsel on either side, gave careful consideration to their submissions and perused the material documents available on record.

7. It is not in dispute that the guideline value was on the higher side when the notification was issued. But, the value prevailing just prior to the notification will have to be taken into account for the purpose of fixing compensation.

8. In such view of the matter, this Court finds that the First Appellate Court has not committed any error in fixing the compensation payable to the claimants. However, this Court is of the view that fixation of Rs.6/- per square feet is on the lower side and hence, taking into consideration Exs.A8 and A9, which are the Guideline Certificates for the years 1997-98 and 2006-2007, Ex.A10 and other Exhibits referred to in this order, this Court fixes Rs.7/- per square feet instead of Rs.6/- per square feet and the enhanced compensation together with the amount fixed by the First Appellate Court, if not already deposited, will have to be deposited by the authorities concerned before the Court below within a period of three months from the date of receipt of a copy of this order. On such amount being deposited, it is open to the claimants to make necessary application to withdraw the same. If there is any difference in the court fee, the same shall be paid by the claimants, once the amount is deposited by the Government at the revised rate fixed supra. The first substantial question of law is answered accordingly in favour of the claimants.

9. As far as the second substantial question of law is concerned, this Court is of the view that though there cannot be any loss, the authorities below have taken note of Exs.A12 and A13 for fixing the amount at Rs.6/- per square feet, even though documents produced by the claimants show only Rs.5/- per square feet. The second substantial question of law is answered accordingly.

10. In fine, S.A.No.137 of 2012 is disposed of with the above direction and observation and S.A.No.598 of 2013 stands dismissed. No costs. Consequently, connected M.P.No.1 of 2013 in S.A.No.598 of 2013 is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To:

1. The Subordinate Court, Vellore.
2. The Special Tahsildar (A.D.W.),
Land Acquisition Officer, Taluk Office Campus,
Gudiyattam, Vellore District.
3. The District Adi-Dravidar Welfare Officer,
Collectorate Campus, Vellore - 9.
4. The District Collector, Vellore District, Vellore - 9.
5. The V.R. Section, High Court, Madras.
+2cc to Mr.G.Rangarajan, Advocate Sr. 22572
+1cc to the Special Government Pleader Sr. 22668

Common Judgment
in
S.A.No.137 of 2012
& S.A.No.598 of 2013

KS (CO)
VR(28/06/2017)



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