

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.04.2017

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

S.A.Nos.1141 & 1142 of 2011
and
M.P.Nos.1 & 1 of 2011

S.A.No.1141 of 2011

The Land Acquisition Officer-cum-
Special Tahsildar, Adi Dravidar Welfare,
Tindivanam.

.. Appellant/Respondent/Referring Officer

Versus

Kanniyammal

.. Respondent/Appellant/Claimant

S.A.No.1142 of 2011

The Land Acquisition Officer-cum-
Special Tahsildar,
Adi Dravidar Welfare, Tindivanam.

.. Appellant/Respondent/Referring Officer

Versus

Vasudevapillai

.. Respondent/Appellant/Claimant

Prayer in S.A.1141/2011:- Second Appeal filed under Section 13 of Tamil Nadu Acquisition of Land for ADW Schemes Act, 31/78 r/w Section 100 of Civil Procedure Code against the judgment and decree dated 30.6.2009 made in C.M.A.No.9 of 2000 on the file of Principal Subordinate Judges Court, Tindivanam, modifying the award made in Award No.7/1999-2000 dated 30.9.1999 passed by the Land Acquisition Officer/Special Tahsildar, (ADW), Tindivanam.

Prayer in S.A.1142/2011:- Second Appeal filed under Section 13 of Tamil Nadu Acquisition of Land for ADW Schemes Act, 31/78 r/w Section 100 of Civil Procedure Code against the judgment and decree dated 30.6.2009 made in C.M.A.No.13 of 2001 on the file of Principal Subordinate Judges Court, Tindivanam, modifying the

award made in Award No.17/2000-2001 dated 20.11.2000 passed by the Land Acquisition Officer/Special Tahsildar, (ADW), Tindivanam.

For Petitioner : Mr.T.Jayaramaraj
Govt.Advocate [Civil Side]

For Respondent : Mr.P.P.Purushothaman
(in SA.No.1141 of 2011)

Mr.S.Kaithamalaikumaran
(in SA.No.1142 of 2011)

COMMON JUDGEMENT

Aggrieved by the judgment and decree dated 30.06.2009 in CMA.Nos. 9 of 2000 & 13 of 2001 of the Principal Subordinate Judge, Tindivanam, modifying the award dated 30.09.1999 and 20.11.2000 passed by the Land Acquisition Officer/Special Tahsildar, (ADW), Tindivanam, the present appeals have been preferred by the Land Acquisition Officer.

2. The brief facts of the case of the claimant are that in order to provide house sites for the houseless Adi Dravidars in Devananthal Village, Vanur Circle, Villupuram District and as the Government does not possess the required Government Poramboke Punjai land, the Government had decided to acquire private Punjai land based on the Tamil Nadu Acquisition of Land of Harijan Welfare Schemes Act, 31/78 and the claimants' lands were accordingly acquired and compensation amounts were given, which was challenged in Civil Miscellaneous Appeal before the Sub Court, which allowed the appeals fixing the compensation as detailed below:-

(i) In C.M.A.No.9 of 2000, the Sub Court has fixed the compensation based on Rs.1200/- per cent for the land in question and for 200 cents, it was fixed the compensation at Rs.2,40,000/-. The Sub Court ordered compensation, after deducting the amount already paid including interest at Rs.63,200/- awarded and remaining amount at Rs.1,76,800/- was directed to be paid, for which 30% solatium was awarded from the date of notice under Section 4(1) till the date of acquisition and for the enhanced compensation 6% was awarded and as per Section 23(1) (a), 12% solatium was awarded.

(ii) In C.M.A.No.13 of 2001, the Sub Court fixed the compensation for the land in question by awarding Rs.700/- per cent and for 131 cents, the Sub Court fixed the compensation at Rs.91,700/-. Apart from this, the Sub Court fixed the compensation for one palm tree at Rs.100/- and for 40 palm

trees, Rs.400/- was awarded. The total compensation of Rs.95,700/- was fixed by the Sub Court and after deducting the compensation with solatium already received by the claimant at Rs.61,800/-, the Sub Court awarded balance compensation at Rs.33,810/- for which, 30% solatium was awarded from the date of Section 4(1) notice till the date of acquisition and for the enhanced compensation, 6% solatium was awarded and as per Section 23(1)(a), 12% solatium was awarded to the claimant.

3. Challenging the above award of the Sub Court, the Land Acquisition Officer-cum-Special Tahsildar has preferred the present appeals.

4. The main contention of the learned Government Advocate appearing for the appellants is that admittedly no documents have been filed by the claimants/respondents herein to substantiate the claim and they are not entitled to enhanced compensation. He further submitted that the compensation awarded by the Tahsildar/Acquisition Officer is enhanced to Rs.700/- per cent from Rs.477/- per cent. Admittedly, there is no evidence in support of the claim. He further submitted that the grant of interest is also on the higher side. He also contended that the solatium is also excessive.

5. The only substantial question of law framed by this Court is as to whether the Court below was right in enhancing the award amount in the claim, when there was no documentary evidence?

6. According to the learned counsel for the claimants, even though it has been stated in the order passed in C.M.A.No.13 of 2001 that two witnesses have been examined and two documents have been marked in para 2 of the judgment, in the tabular column containing the list of witnesses and documents, no documents have been produced by the appellant. Learned counsel for the claimants further submitted that the claimants have produced documents in support of the contentions and that admittedly, there was no boundary bearing trees, whereas the Court below has accepted that there was 40 trees. The trial Court has granted interest at 6% and as per Section 23(1)(a) of the said Act, at 12% and awarded solatium at 30%.

7. Admittedly, Section 4(1) notification was issued and a compensation for Rs.91,700/- in total was granted for the extent of 131 cents at Rs.700 per sq.ft. It is based on evidence let in by the parties. The Courts below have decided to accept the verbal evidence of the claimants and rendered a finding. The substantial question of law is answered accordingly.

8. This Court finds that there is no error in fixing the interest, as the issue has been decided based on the evidence

let in by the parties. Hence, the Second Appeal No.1141 of 2011 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. As far as the solatium is concerned, this Court deems it fit to reduce the solatium granted at 30% to 15%. Accordingly, Second Appeal No.1142 of 2011 is partly allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

kmi

To

1. The Principal Subordinate Judge,
Tindivanam.
2. The Land Acquisition Officer/Special Tahsildar,
(ADW), Tindivanam.
3. The Section Officer,
V.R.Section, High Court, Madras-104.

+1cc to Special Government Pleader in sr.no.21934

+1cc to M/s.P.P.Purushohtaman, Advocate in sr.no.20687

S.A.Nos.1141 & 1142 of 2011
and
M.P.Nos.1 & 1 of 2011

RSK(CO)
NR 17/07/2017

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