



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2017

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

SECOND APPEAL (MD) No.780 of 2015

and

M.P(MD).No.3 of 2015 and C.M.P.(MD).No.6553 of 2017

The Special Tahsildar,
Land Acquisition,
Adi Dravidar Welfare,
Theni.

... Appellant /
Respondent/Referring Officer

Vs.

1.N.Manoharan (died)

2.K.N.Rengasamy

3.V.Sulochana (died)

4.V.Rajkumar

5.V.Lakshminarayanan

6.Balamurugan

7.Kamala

8.Vijaykumar

9.Jayalakshmi

10.Sathiyavani

11.Sindhuja

12.Venkateshkumar

... Respondents /
Claimants

(R6, R7, R8 are recorded as LR's of the deceased 3rd respondent, vide order of the Court dated 21.12.2016 made in S.A.(MD).No.780 of 2015)

(R10 to R12 are brought on record as LR's of the deceased R1, vide order of the Court, dated 20.07.2017, made in C.M.P.(MD).Nos.11577 and 11578 of 2016.)

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For respondent Mr.P.Muthuvijaya Pandian,
Nos.2, 4 to 11

This appeal arises out of a land acquisition proceedings and the same is preferred by the Government.

3. The acquired lands are owned by the respondents and the same are acquired by the appellant for Adi-draavidar Welfare Housing Scheme, after issuing Section 4(1) notification, dated 14.02.1996. After due enquiry, a data sale deed, dated 31.12.1996, was taken up for consideration. The said sale deed relates to Survey Nos. 2675/1 and 2675/2, in which 99 cents were sold at Rs. 59,400/-. The appellant has passed the award, fixing the said value. Aggrieved by the said value fixed by the Land Acquisition Special Tahsildar, the claimants had preferred L.A.C.M.A.No. 25 of 1997. Before the learned Subordinate Judge, Periyakulam, the 4th and 3rd claimants were examined as CW1 and CW2 respectively. They have stated that the lands acquired are potential house sites and the nearby lands were sold at Rs. 10,000/- per cent. The claimants had also filed Exs. C1 to C4 in support of their contentions. Ex. C2 - sale deed is much prior to the date of Section 4 (1) notification. As per Ex. C2, the land was sold at Rs. 63,800/-. Per contra, the Land Acquisition Special Tahsildar had stated that the rate was fixed at Rs. 600/- per cent, based on Ex. R3. According to the appellant, the lands acquired are not the house site, but they are punja lands.



4. Before the learned Subordinate Judge, Periyakulam, the claimants had argued that as there is a road nearby the acquired lands, the acquired lands are capable of being laid-out for the purpose of housing and it would have a better marketable value. In support of their case, they had also filed Exs.C2 to C4, sale deeds, relating to lands contiguous to the acquired lands. Thus, the claimants had sought for fixation of value based on these documents. The learned Subordinate Judge has, after analysing the entire evidence, has fixed the value of the lands acquired at Rs.2,000/- per cent. The learned Subordinate Judge has also awarded solatium at 30%.

5. This second appeal was admitted on the following substantial questions of law?

"a) Whether solatium of 30% and interest of 12% awarded by the Tribunal below for the land acquired under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 is correct?

b) Whether the award passed by the Tribunal below is correct without giving 1/3rd deduction for development charges?."

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

7. In this appeal, the appellant has not disputed the value of the land fixed by the Subordinate Court, Periyakulam. According to the appellant, there is no developmental charges deducted from the amount awarded and the percentage of solatium awarded by the Subordinate Court is excessive. According to the claimants, the lands, which are contiguous to the acquired lands, were sold at Rs.10,000/- per cent and therefore, Rs.10,000/- per cent can be awarded for the acquired lands. The Subordinate Court, after taking into consideration of the documents filed on either side, has fixed the value of the land only at Rs.2,000/- per cent. Of course, it is true that the Subordinate Court did not mention about the deduction of developmental charges. A perusal of the documents available on records would go to show that the amount fixed by the Subordinate Court can be reasonably construed as the amount fixed after deduction of development charges. Therefore, the said contention is rejected.

8. So far as the contention with regard to the solatium is concerned, it is seen that as per Section 7(2) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, only 15% of the market value can be awarded as solatium and not 30% as awarded by the Subordinate Court, Periyakulam. Accordingly, the said portion of the award alone is liable to be modified.

9. In the result, this second appeal is allowed in part and the solatium amount awarded by the first appellate Court is reduced to



15% and in other respect, the judgment and decree passed by the learned Subordinate Judge, Periyakulam in L.A.C.M.A.No.25 of 1997 is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(RTI)

Sub-Assistant Registrar

To

The Subordinate Judge,
Periyakulam,
Theni District.

Copy to:-

The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.P.Muthuvijaya Pandian, Advocate, SR.No.71856

+One cc to The Special Government Pleader, SR.No.72324

gcg
RL/5C/4P/KP/SAR1/5/9/2017

S.A. (MD) No.780 of 2015

10.08.2017