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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

SECOND APPEAL (MD) No.268 of 2017

and

C.M.P (MD) .No.5928 of 2017

The Special Tahsildar (LA),
Adi Dravidar Welfare,
Unit - 1,
Dindigul.

... Appellant /Respondent

Vs.

Lakshmi Ammal

... Respondent /Claimant

PRAYER: Second Appeal filed under Section 13 of the Land Acquisition for Harijan Welfare Scheme Act, 1978, against the judgment and decree, dated 05.01.2010, made in LACMA.No.2 of 1998 by the learned Principal Subordinate Judge, Dindigul, which was filed against the award No.5/97-98, dated 29.12.1997, passed by the Special Tahsildar (ADW), Unit - I, Dindigul.

For appellant

... Mr.S.Sathiskumar,
Additional Government Pleader

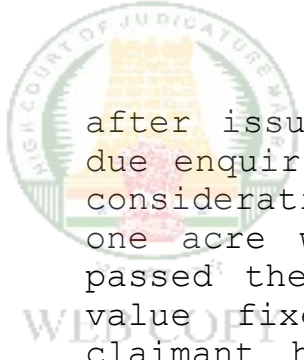
For respondent

.... Mr.S.Ramesh

JUDGMENT

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

2. Pursuant to the 4(1) notification dated 10.11.1997, an extent of 2.30.5 hectares (5.69 acres) in Survey No.117/2B, in Alakkuvarpatty Village, Dindigul Taluk, Dindigul District, was sought to be acquired by the appellant for the purpose of the Adi-dravidar Welfare Housing Scheme. The respondent herein is the owner of the property. The award was passed on 29.12.1997. The appellant / Land Acquisition Officer, after assessing the data sale deeds, had fixed Rs.24,700/- per hectare. Aggrieved by the same, L.A.C.M.A.No.2 of 1998 was filed by the claimant on the file of the Principal Subordinate Court, Dindigul. After assessing the oral and documentary evidence, the Tribunal had fixed Rs.75,000/- per acre. Aggrieved by the same, the above appeal has been filed by the Government.



after issuing Section 4(1) notification, dated 10.11.1997. After due enquiry, a data sale deed, dated 10.06.1996, was taken up for consideration. The said sale relates to Survey No.117/1, in which one acre was sold for a sum of Rs.24,700/-. The appellant has passed the award, fixing the said value. Aggrieved by the said value fixed by the Land Acquisition Special Tahsildar, the claimant had preferred C.M.A. before the Principal Subordinate Court, Dindigul, in which the claimant herself was examined as CW1. She has stated that the land acquired is a potential house site and the nearby lands were sold at Rs.75,000/- per acre. The claimant had also filed Ex.C1 - sale deed, dated 14.03.1996. The said sale deed is much prior to the date of Section 4 (1) notification. As per Ex.C1, an acre was sold for Rs.75,000/-. Per contra, the Land Acquisition Special Tahsildar had stated that the rate was fixed at Rs.24,700/- per hectare, based on Exs.R1 and R3. According to the appellant, the land acquired is not the house site, but the same is Vari punja land.

4. Before the learned Principal Subordinate Judge, the Claimant had argued that 200 meters away from the land acquired, there is a factory and that the acquired land is capable of being laid-out for the purpose of housing and it would have a better marketable value. In support of her case, she had also filed Ex.C1, sale deed, dated 14.03.1996, which relates to a land in S.No.117/1. Thus, the claimant had sought for fixation of value based on that document. The learned Principal Subordinate Judge has given a finding that the land in Survey No.117/1, which was sold under Ex.C1, is contiguous to the acquired land in Survey No.117/2B and the same was sold at Rs.4.20 per square feet. The lower appellate Court, after deducting amount for developmental works viz., roads, drainage, etc., had fixed the value of the land at Rs.75,000 per acre.

5. Though the learned Additional Government Pleader has made a strenuous attempt to assail the said value fixed, there was no document produced to show that the value would be less than the amount fixed by the Principal Subordinate Court. Even considering the document produced by the claimant viz., Ex.C1 and the appellant viz., Ex.R3, which are much prior to Section 4(1) notification, an average value, after deducting the developmental charges, seems to be Rs.75,000/- per acre. There is no convincing reasons to interfere with the said value fixed by the first appellate Court for the land acquired. This Court is also of the opinion that the amount awarded by the Principal Subordinate Court is not excessive and the same does not warrant any interference of this Court. Accordingly, this second appeal filed by the Government is liable to be dismissed as devoid of any merits.

<https://hcservices.gov.in/gov.in/hcservices> result, this second appeal fails and the same is, accordingly, dismissed, confirming the judgment and decree passed by the learned Principal Subordinate Judge, Dindigul, in



L.A.C.M.A.No.2 of 1998. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

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/True Copy/

Sub Assistant Registrar

To

1.The Principal Subordinate Judge, Dindigul.

2.The The Special Tahsildar (LA),
Adi Dravidar Welfare, Unit - 1,Dindigul.

3.The Section Officer,VR Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.S.RAMESH, Advocate SR.No.72237

gcg

MAS/SV-MMS/SAR2:14.09.2017:3P-5C

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09.08.2017