



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

SECOND APPEAL (MD) No.266 of 2017

and

C.M.P (MD) .No.5926 of 2017

WEB COPY

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

... Appellant /Respondent

Vs.

1.M.Ramasamy

2.M.Rangasamy

... Respondents /Claimants

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 L.A.C.M.A.No.12 of 1997 by the learned Principal Subordinate Judge, Dindigul, which was filed against the award No.6/96-97, dated 24.03.1997 passed by the Special Tahsildar (ADW), Unit - I, Dindigul.

For appellant

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

For respondents

.... Mr.G.Gomathi Sankar

JUDGMENT

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

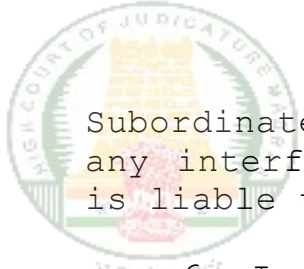
2. Pursuant to the 4(1) notification dated 12.12.1996, an extent of 1.13.5 hectares (2.80 acres) in Survey No.224/1B1, Alakkuvarpatty Village, Dindigul Taluk, Dindigul District, was sought to be acquired by the appellant for the purpose of the Adi-dravidar Welfare Housing Scheme. The respondents herein are the owners of the property. The award was passed on 24.03.1997. The appellant / Land Acquisition Officer, after assessing the data sale deeds, had fixed Rs.27,000/- per acre. Aggrieved by the same, L.A.C.M.A.No.12 of 1997 was filed by the claimants on the file of the Principal Subordinate Court, Dindigul. After assessing the oral and documentary evidence, the Tribunal had fixed Rs.1 lakh per acre. Aggrieved by the same, the above appeal has been filed by the Government.



3. The acquired land is owned by the respondents and the same is acquired by the appellant for Adi-dravidar Welfare Housing Scheme, after issuing Section 4(1) notification, dated 12.12.1996. After due enquiry, a data sale deed, dated 20.02.1996, was taken up for consideration. The said sale relates to Survey No.242/3, in which one acre was sold for a sum of Rs.27,000/-. The appellant had 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, the first claimant / first respondent himself was examined as CW1. He has stated that the acquired land is a potential house site and the nearby lands were sold at Rs.50/- per square feet. The claimants had also filed Exs.C1, C3, C4, C5 - sale deeds, which are much prior to the date of Section 4 (1) notification. As per Ex.C1, a square feet was sold at Rs.5/-. Per contra, the appellant had stated that the rate was fixed at Rs.66,690/- per hectare, based on Ex.R3. According to the appellant, the land acquired is not the house site, but it is a dry land.

4. Before the learned Principal Subordinate Judge, the claimants had argued that there is bus facility available to the acquired land and that the acquired land is capable of being laid-out for the purpose of housing. In support of their case, they had also filed Exs.C1 to C6. Though the claimants had produced Exs.C1 to C6, the learned Principal Subordinate Judge had taken into consideration only Ex.C1 - sale deed, dated 08.12.1996, as the land sold under the said sale deed is contiguous to the acquired land. The learned Principal Subordinate Judge has rejected Exs.C2 to C6, as there is no document produced to show that the lands sold under Exs.C2 to C6 are contiguous to the acquired land. The learned Principal Subordinate Judge has given a finding that the land in Survey No.88/2, which sold under Ex.C1, is contiguous to the acquired land in Survey No.178/4 and the said land was sold at Rs.5/- per square feet. The lower appellate Court, after deducting amount for developmental works viz., roads, drainage, etc., had fixed the value at Rs.1 lakh 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 learned Principal Subordinate Judge. Even considering the documents produced by the claimants viz., Ex.C1 and the appellant viz., Ex.R3, which are much prior to Section 4 (1) notification, an average value seems to be Rs.5/- per square feet and after deducting the developmental charges, the value was fixed by the lower appellate Court at Rs.1 lakh per acre. There is no reason to interfere with the said value fixed by the lower 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 is liable to be dismissed as devoid of any merits.

6. In the 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.12 of 1997. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/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.G.GOMATHI SANKAR, Advocate SR.No.71434

gcg

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

S.A. (MD) No.266 of 2017
09.08.2017