



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

SECOND APPEAL (MD) No.267 of 2017

and

C.M.P (MD) .No.5927 of 2017

WEB COPY

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

... Appellant /Respondent

Vs.

Ramayee 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 03.03.2009, made in L.A.C.M.A.No.1 of 1998 by the learned Principal Subordinate Judge, Dindigul, which was filed against the award No.11/97-98, dated 31.12.1997 passed by the Special Tahsildar (ADW), Unit-I, Dindigul.

For appellant

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

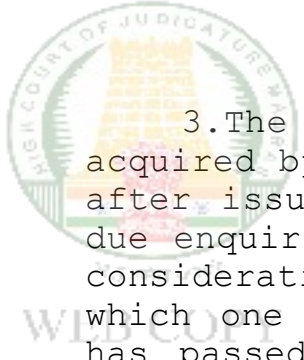
For respondent

.... Mr.G.Aravinthan

JUDGMENT

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

2. Pursuant to 4(1) notification dated 15.12.1997, an extent of 2.03.5 hectares (5.03 acre) in Survey No.772/7A, in Gurunathanaickanur Village, Dindigul Taluk, 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 31.12.1997. The appellant / Land Acquisition Officer, after assessing the data sale deeds, had fixed Rs.25,631/- per hectare. Aggrieved by the same, L.A.C.M.A.No.1 of 1998 was filed by the respondent / claimant on the file of the Principal Subordinate Court, Dindigul. After assessing the oral and documentary evidence, the Tribunal had fixed Rs.1,700/- per cent. Aggrieved by the same, the above appeal has been filed by the Government.



3. The acquired land is owned by the respondent and the same is acquired by the appellant for Adi-dravidar Welfare Housing Scheme, after issuing Section 4(1) notification, dated 15.12.1997. After due enquiry, a data sale deed, dated 20.08.1997, was taken up for consideration. The said sale deed relates to Survey No.286/5, in which one acre was sold for a sum of Rs.13,200/-. The appellant has passed the award, fixing the said value. Aggrieved by the said value fixed by the Land Acquisition Tahsildar, the claimant had preferred C.M.A. before the Principal Subordinate Court, in which the husband of the claimant was examined as CW1 and another witness was examined as CW2. They had stated that the land acquired is potential house site and that the sale deeds, which are taken into consideration as data sale deeds, are situate 1.4 k.m. away from the acquired land. The said fact has been fairly conceded by the witness examined on the side of the appellant viz., DW1. The claimant had also filed Ex.C1 - sale deed, dated 28.10.1997, which is prior to the date of Section 4 (1) notification. As per Ex.C1, a cent was sold for Rs.4/- per square feet. Per contra, the Land Acquisition Special Tahsildar had stated that the rate was rightly fixed at Rs.25,673/- per hectare, based on Ex.R3. According to the appellant, the lands acquired are not the house sites.

4. Before the Principal Subordinate Court, the Claimant had argued that as there is a road nearby the acquired land, the acquired land is capable of being laid-out for the purpose of housing and that it would have a better marketable value. In support of her case, she had also filed Ex.C1, sale deed, dated 28.10.1997, which relates to a land closure to the acquired land. Thus, the claimant had sought for fixation of value based on the said document. Since it is admitted by DW1 that the data sale deeds situate 1.4 k.m. away from the acquired land and that there is a road nearby the land acquired, the learned Principal Subordinate Judge has taken into consideration Ex.C1, which is prior to Section 4(1) notification and fixed the value of the land at Rs.1700/- per cent, after deducting amount for developmental works viz., roads, drainage, etc.

5. Though the learned Additional Government Pleader has made a strenuous attempt to assail the said value fixed, there is 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, which is much prior to Section 4(1) notification, an average value seems to be Rs.4/- per square feet and after deducting the developmental charges, the value was fixed by the lower appellate Court at Rs.1,700/- per cent. There is no convincing reasons to interfere with the said value fixed by the lower appellate Court. This Court is 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.

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.1 of 1998. 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.ARAVINTHAN, Advocate SR.No.71517

gcg

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

S.A. (MD) No.267 of 2017
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