



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

SECOND APPEAL (MD) No.269 of 2017

and

C.M.P (MD) .No.5929 of 2017

WEB COPY

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

... Appellant / Respondent

Vs.

Vasanthi

... 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 11.01.2010, made in L.A.C.M.A.No.8 of 2008 by the learned Principal Subordinate Judge, Dindigul, which was filed against the award No.1/96-97, dated 28.10.1996 passed by the Special Tahsildar (ADW), Unit-I, Dindigul.

For appellant

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

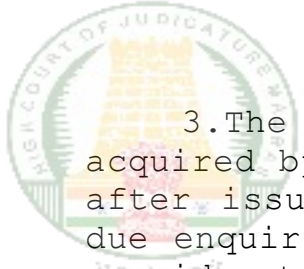
For respondent

.... Mr.R.Ramadurai

JUDGMENT

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

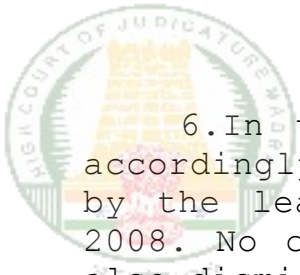
2. Pursuant to the 4(1) notification dated 31.01.1996, an extent of 0.81.0 hectares (2.07 acres) in Survey No.572/3, Godalvavi Village, Dindigul Taluk, Dindigul District, was sought to be acquired by the appellant for the purpose of the Adi-dravidar Welfare Housing Scheme. The respondent herein is the owner of the property. The award was passed on 28.10.1996. The appellant / Land Acquisition Officer, after assessing the data sale deeds, had fixed the value of the land at Rs.30,000/- per acre. Aggrieved by the same, L.A.C.M.A.No.8 of 2008 was filed by the claimant on the file of the Principal Subordinate Court, Dindigul. After assessing the oral and documentary evidence, the Tribunal had awarded Rs.3,500/- per cent and Rs.500/- for per coconut tree. Aggrieved by the same, the above appeal has been



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 31.01.1996. After due enquiry, a data sale deed, dated 06.10.1995, was taken up for consideration. The said sale relates to Survey No.64/2, in which one acre was sold at Rs.30,000/-. 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.13/- per square feet. The claimant had also filed Ex.C1 - sale deed, dated 12.07.1995 and Ex.C2 - sale deed, dated 22.11.1995. Both the sale deeds are much prior to the date of Section 4 (1) notification. As per Ex.C1, a cent was sold for Rs.5,994.50 and as per Ex.C2, a cent was sold at Rs.5,668/-. Per contra, the Land Acquisition Special Tahsildar had stated that the rate was fixed at Rs.30,000/- per acre, based on the data sale deed dated 06.10.1995. According to the appellant, the land acquired is not the house site, but it is a Manavari punja land.

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 it would have a better marketable value. Therefore, the claimant had sought for fixation of value based on Exs.C1 and C2. It is also contended by the claimant that the Land Acquisition Special Tahsildar had failed to award compensation for 180 coconut trees available in the acquired land and as per Ex.C3, a sum of Rs.1,000/- per tree can be awarded. The learned Principal Subordinate Judge, Dindigul, on considering Exs.C1 and C2, fixed the value of the land at Rs.3,500/- per cent, after deducting charges for developmental works viz., roads, drainage, etc. and also fixed Rs.500/- per tree as compensation

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 documents produced by the claimant viz., Exs.C1 and C2, which are much prior to Section 4(1) notification, an average value for the land acquired seems to be Rs.3,500/- per cent, after deducting the developmental charges and Rs.500/- can be fixed as compensation for each tree. There is no convincing reasons to interfere with the said value fixed by the first appellate Court. Hence, 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 is dismissed with costs. 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 in L.A.C.M.A.No.8 of 2008. No costs. Consequently, connected miscellaneous petition is also dismissed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge, Dindigul.

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

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

Gcg

MAS/SV-MMS/SAR2:14.09.2017:3P-4C

S.A. (MD) No.269 of 2017
09.08.2017