



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2017

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

S.A(MD)No.378 of 2017

and

C.M.P(MD)No.8063 of 2017

The Special Tahsildar,
Land Acquisition,
Adi Dravidar Welfare,
Tamaraikulam,
Periyakulam,
Theni District.

... Appellant /Respondent/Referring Officer

Vs.

1.K.Thangavelu
2.K.Thangaiah
3.K.Veerassami

... Respondents/Appellants/Claimants

PRAYER: Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, read with Section 100 C.P.C., against the Judgment and Decree, dated 10.07.2007 made in L.A.C.M.A.No.24 of 1997 by the learned Subordinate Judge, Periyakulam, which was filed against the Award No.10/1996-1997, dated 25.03.1997, passed by the Special Tahsildar (ADW), LAO, Periyakulam.

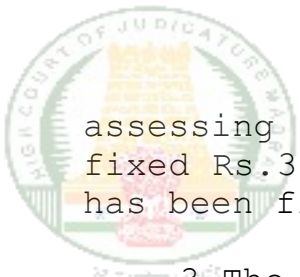
For Appellant : Mr.S.Sathish Kumar,
Additional Government Pleader

For R - 2 : Mr.M.Mariappan

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 19.01.1997 an extent of 0.78.0 hectares (192.66 cents) of dry land in Survey Nos.238/3A, 238/3C and 238/3D, Odaipatty Village, Uthamapalayam Taluk, Theni 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 25.03.1997. The appellant / Land Acquisition Officer, after assessing the data sale deeds, had fixed Rs.833/- per cent. Aggrieved by the same, L.A.C.M.A.No.24 of 1997 was filed by the claimants on the file of the Subordinate Court, Periyakulam. After



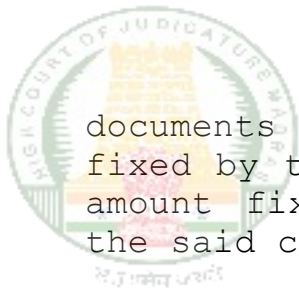
assessing the oral and documentary evidence, the Tribunal had fixed Rs.3,000/- per cent. Aggrieved by the same, the above appeal has been filed by the Government.

3. The acquired lands were owned by the respondents and the same were acquired by the appellant for Adi-dravidar Welfare Housing Scheme, after issuing Section 4(1) notification, dated 19.01.1997. After due enquiry, a data sale deed, dated 22.08.1995, was taken up for consideration. The said sale deed relates to Survey No.236/2B in which one cent was sold at Rs.833/-. 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.24 of 1997. Before the learned Subordinate Judge, Periyakulam, the first claimant and one Salakrishnan 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.5,663/- per cent. The claimants had also filed Exs.C1 and C2 in support of their contentions. Ex.C2 - sale deed is much prior to the date of Section 4 (1) notification. As per Ex.C2, one cent was sold at Rs.5,663/-. Per contra, the Land Acquisition Special Tahsildar had stated that the rate was fixed at Rs.833/- per cent only, based on the data sale deed, dated 22.08.1995.

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.C1 and C2, 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, after analysing the entire evidence, has fixed the value of the lands acquired at Rs.3,000/- per cent. The learned Subordinate Judge has also awarded solatium at 30%.

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

6. 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.5,663/- per cent and therefore, Rs.5,663/- 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.3,000/- 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.

7. 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. So far as the interest is concerned, as per Section 6 7(2) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, only 6% interest can be awarded and hence, the interest is reduced to 6%. Accordingly, the said portions of the award alone are liable to be modified.

8. 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 the percentage of interest is also reduced to 6% and in other respect, the Judgment and Decree passed by the learned Subordinate Judge, Periyakulam in L.A.C.M.A.No.24 of 1997 is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Periyakulam.

2. The Special Tahsildar,
Land Acquisition,
Adi Dravidar Welfare,
Tamaraikulam, Periyakulam,
Theni District.

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

+ 1 cc TO Mr.M.Senthil kumar , Advocate in SR No. 77942
+1cc to The Special Government Pleader in SR.No.77688

ps

AE/JC/SAR1/25.10.2017/3P/6C

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