BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

S.A(MD)No.410 of 2017
and
C.M.P(MD)No.8636 of 2017

1.The Special Tahsildar (Adi-Dravidar Welfare)
and Land Acquisition Officer,
Padmanabapuram.

2.The District Revenue Divisional Officer,
Nagercoil,
Kanyakumari District. ... Appellants/Appellants/
Referring Officer

Vs.

Madhavan Pillai ... Respondent/Respondent/Claimant

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 25.01.2001 made in L.A.A.No.1 of 1997 by the Sub Court, Padmanabapuram, modifying the award passed in Award No.15/1995-1996, dated 22.03.1996, passed by the Special Tahsildar (ADW Officer), LAO, Padmanabhapuram.

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

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 27.11.1995 an extent of 2.12.5 hectares (5 acres 25 cents) of dry land in Survey No.99/1B situated in Kadiapattinam Village, Kalkulam Taluk, was sought to be acquired by the appellants for the purpose of the Adi-dravidar Welfare Housing Scheme. The respondent herein is the owner of the property. The award was passed on 22.03.1996. The first appellant/Land Acquisition Officer, after assessing the data sale deed, had fixed Rs.980/- per cent. Aggrieved by the same, L.A.A.No.1 of 1997 was filed by the claimant on the file of the Subordinate Court, Padmanabapuram. After assessing the oral and documentary evidence, the Tribunal had fixed Rs.2,500/- per cent. Aggrieved by the same, the above appeal has been filed by the Government.

3.The acquired land was owned by the respondent and the same was acquired by the appellants for Adi-dravidar Welfare Housing Scheme, after issuing Section 4(1) notification, dated 27.11.1995. After due enquiry, a data sale deed, dated 21.04.1995, was taken up for consideration. The said sale deed relates to Survey Nos.124/16 and 124/17 in which 51-1/4 cents were sold at Rs.51,520/-. The first 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 L.A.A.No.1 of 1997. Before the learned Subordinate Judge, Padmanabhapuram, the claimant was examined as CW1. He has stated that the lands acquired are potential house sites and the nearby lands were sold at Rs.2,900/- per cent. The claimant had also filed Exs.C1 and C2 in support of his contentions. Ex.C1 and Ex.C2 - sale deeds are much prior to the date of Section 4 (1) notification. As per Ex.C1, one cent was sold at Rs.2,900/-. Per contra, the Land Acquisition Special Tahsildar had stated that the rate was fixed at Rs.980/- per cent only, based on the data sale deed, dated 21.04.1995.

4.Before the learned Subordinate Judge, Padmanabhapuram, the claimant had argued that 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 his case, he has also filed Exs.C1 and C2, sale deeds, relating to lands contiguous to the acquired lands. Thus, the claimant 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.2,500/- per cent. The learned Subordinate Judge has also awarded solatium at 15%.

5.Heard the learned counsel appearing for the appellants.

6.In this appeal, the appellants have not disputed the value of the land fixed by the Subordinate Court, Padmanabhapuram. According to the appellants, there is no developmental charges deducted from the amount awarded. According to the claimant, the lands, which are contiguous to the acquired lands, were sold at Rs.2,900/- per cent and therefore, Rs.2,900/- 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.2,500/- 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.In the light of the above facts, there is no question of law arising for consideration in the Second Appeal.

8.In the result, this second appeal is dismissed and the Judgment and Decree passed in L.A.A.No.1 of 1997 by the learned Subordinate Judge, Padmanabhapuram is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The Subordinate Judge,
Padmanabapuram.

2.The Special Tahsildar (ADW Officer),
LAO, Padmanabhapuram.

3.The District Revenue divisional Officer,
Nagercoil,
Kanyakumari District

Copy to:-

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

+One cc to The Special Government Pleader, SR>No.79743

ps
RL/6C/3P/SKN/RSK/SAR3/28/9/2017

S.A(MD)No.410 of 2017