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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 12.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Appeal Suit No.40 of 2011

and

M.P.(MD)No.2 of 2011

1.The State of Tamil Nadu,
Rep. by District Collector,
Sivagangai.

2.The Special Tahsildar,
Adi Dravidar Welfare,
Devakottai.

..Appellant/Referring Officer

-Vs-

KR.Thannermalai

..Respondent/Claimant

Prayer: Appeal Suit filed under Section 54 of the Land Acquisition Act, against the Judgment and Decree of the learned Subordinate Judge of Devakottai in L.A.O.P.No.1 of 2003 dated 09.12.2009.

For Appellants : Mr.S.Kumar
Additional Government Pleader
For Respondent : Mrs.S.Srimathy

JUDGMENT

This appeal has been preferred against the award of the Land Acquisition Tribunal, dated 09.12.2009 in L.A.O.P.No.1 of 2003.

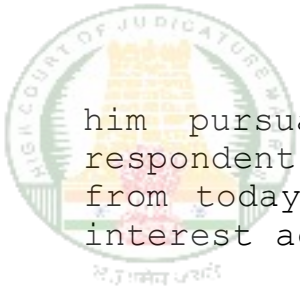
2.The admitted facts in this case are as follows:

2.1.The land measuring an extent of 2.80.0 hectares in Unjani Revenue Village was acquired for providing house sites to Adi Dravidars by invoking the provisions of the Tamil Nadu Acquisition of Land For Harijan Welfare Scheme Act, 1978. The notification under Section 4(1) of the State Act was published on 08.01.2003 and the substance of the notification was also published in the locality on 26.02.2003. The Special Tahsildar passed an award on 27.03.2003. Instead of filing an appeal provided under Section 9 of the Act namely the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, the land owners appeared to have filed petition under Section 18 seeking reference to Civil Court. Unmindful of the difference between the Central Act and the State Act, the reference has been entertained by the Land Acquisition Tribunal in this case and the Tribunal has enhanced the amount. Aggrieved by the same, the State has preferred the above appeal.



3. The Land Acquisition Tribunal has no jurisdiction to entertain a reference under Section 18 of the Land Acquisition Act (Central Act) when the land is acquired under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978. As per the State Act, any person who does not agree to the amount determined by the prescribed authority under Sub Section (ii) of Section 7 of the Act, may prefer an appeal to the Court within a period of limitation prescribed. In the present case, no appeal has been filed within the time. However, the matter was entertained as a reference by invoking Section 18 of the Land Acquisition Act (Central Act). The State Act is a complete Code by itself and the provisions that the State Act had already been upheld by the Hon'ble Supreme Court in *State of Tamil Nadu and others vs. Ananthi Ammal* reported in AIR 1995 SC 1554. The appeal under Section 7 of the State Act is entirely different from reference under Section 18 of the Central Act. It has also been held by this Court that in case of an appeal under Section 9, Court fee is payable under Section 51 of the Tamil Nadu Court Fees Act. In such circumstances, this Court is unable to sustain the order of the Land Acquisition Tribunal which has no jurisdiction to entertain this matter as a reference under Section 18 of the Land Acquisition Act (Central Act). However, the respondent should be given liberty to prosecute his case further in accordance with the provisions of the Tamil Nadu State Act. Hence, this appeal is allowed and the order of the Land Acquisition Tribunal in L.A.O.P.No.1 of 2003 dated 09.12.2009 is set aside. However, liberty of the claimant / respondent to file regular appeal under Section 9 of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 is preserved. The time that is taken from the date of reference till the date of this judgment may be excluded for the purpose of calculating limitation while filing a regular appeal under Section 9 of the State Act. No costs. Consequently, the connected miscellaneous petition is closed.

4. It is pointed out by the learned counsel for the respondent that the appellants have deposited a sum of Rs.3,57,182/- on 28.06.2011 pursuant to the order of this Court dated 08.06.2011. It was further brought to the notice of this Court that the respondent has withdrawn a sum of Rs.3,00,000/- out of the deposit that was made by the appellants. Considering the fact that the reference was made by the second appellant and that the respondent cannot be blamed for any lapses or negligence on his part, this Court feel that the amount which was withdrawn by the respondent pursuant to the order of this Court can be adjusted with the amount that may be finally determined later by the Civil Court in the appeal that may be filed under Section 5 of the Act. It is also made clear that the respondent is directed to file an appeal within a period of four weeks from today, if he wants to avail the benefit of this order to keep the amount withdrawn by



him pursuant to the interim order of this Court. If the respondent fails to file an appeal within a period of four weeks from today, he is liable to refund the sum of Rs.3,00,000/- with interest accrued thereon, had it been in Court deposit.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The Subordinate Judge,
Devakottai.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.D.Paneer Selvam, Advocate in SR.2482

Appeal Suit No.40 of 2011
12.01.2017

srm

PBK/EM-MPA/SAR-I 20/01/2017 ::3P-4C:(IT)