

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Second Appeal No.268 of 2010
and M.P.No.1 of 2010

The Special Tahsildar,
Adi-Dravidar Welfare,
Ulundurpet.

...Respondent/Respondent/
Appellant

-Vs-

Ponnumani Mudaliar

...Claimant/Appellant/
Respondent

PRAYER: Second Appeal filed under Section 13 of the Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act (Act 31/78) read with Section 100 of Civil Procedure Code, against the judgment and decree dated 25.09.2001 made in C.M.A.No.25 of 1997 on the file of Principal Subordinate Judge, Villupuram modifying the award proceedings dated 19.03.1997 made in proceedings No.A/2328/93 passed by the Special Tahsildar, ADW, Ulundurpet.

For Appellant : Mr.M.Venkadesh Kumar
Government Advocate (C.S)

For Respondent : Ms.P.Kavitha Balakrishnan

J U D G M E N T
सत्यमेव जयते

The judgment and decree dated 25.09.2001 made in C.M.A.No.25 of 1997 on the file of Principal Subordinate Judge, Villupuram, is challenged by the Special Tahsildar, Adi-Dravidar Welfare, Ulundurpet.

2. The issue involved in this appeal is that whether the value fixed by the Lower Appellate Court is reasonable or not and as to whether the Court is empowered to permit the respondent to let in evidence and mark documents and awarding of 30% solatium is sustainable or not.

3. The Government has acquired lands in Veerangipuram Village, Tirukovilur Taluk, Viluppuram District, for the purpose

of providing house sites to Adi-draavidar. The District Collector passed an award fixing the value of the land at Rs.250/- per cent. The respondent's lands were acquired for the said purpose. Since the value fixed by the District Collector was very meager, they objected to the fixation of the value and sought the matter be referred for fixation of fair award before the reference Court.

4. On reference, the Court has enhanced the value from Rs.250/- per cent to Rs.750/- per cent, based on data submitted before it. The Court on considering the location of lands and the extent of lands and the value assessed during the registration had taken up data documents, which was proximate to the acquired land and larger in extent for arriving at the fair and reasonable value. Against the order passed by the Court, the Government has preferred this appeal.

5. Heard the submissions made by the learned counsel appearing for both parties.

6. The first question of law raised by the Government is that whether the Lower Appellate Court is correct in allowing the respondent to let in oral evidence and also marking document under Section 9 of the Act when it does not contemplate taking any evidence.

7. It is well settled that as per Section 14 of the Land Acquisition Act, even the Collector is empowered to take evidence and summon documents, in the same manner, as is provided to the Civil Court, under the Civil Procedure Code. While being so, the Civil Court is always entitled to record evidence and receive documents. There is no bar for the reference Court to record evidence of the parties for the purpose of fixing the correct market value.

8. The other question of law that whether the Court below is right in awarding 30% solatium is concerned, Section 23(1) of the Land Acquisition Act mandates 30% towards solatium as compulsory.

9. This Court in judgment passed in A.S.No.587 of 1996 dated 01.09.2016, in a similar occasion, has awarded 30% solatium and 9% interest for one year and also subsequent interest at 15% as per Section 23 of the Land Acquisition Act.

10. Therefore, the questions of law raised by the appellant are answered in the negative. I do not find any infirmity in the order dated 25.09.2001 in C.M.A.No.25 of 1997 passed by the Principal Subordinate Judge, Villupuram, and it is confirmed.

This Second Appeal merits no consideration and accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Subordinate Judge,
Villupuram.

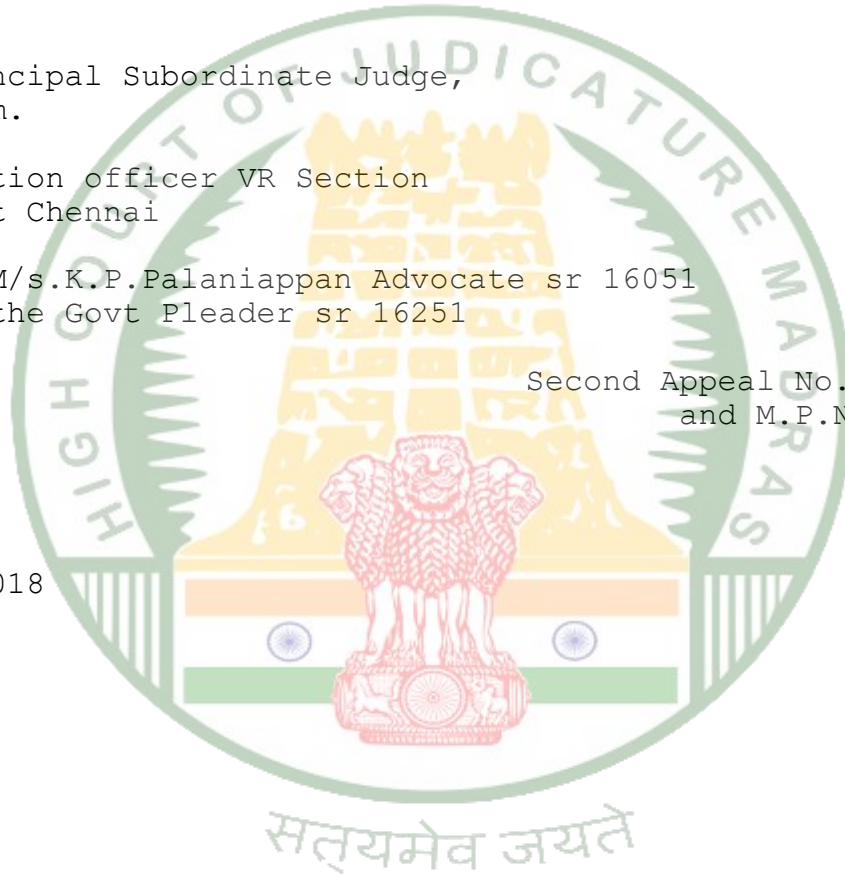
2.The Section officer VR Section
High Court Chennai

+1 cc to M/s.K.P.Palaniappan Advocate sr 16051

+1 cc to the Govt Pleader sr 16251

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