

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2018

CORAM :

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Civil Revision Petition (NPD) Nos.2565 to 2568 of 2007
and
M.P.Nos.1,1,1 and 1 of 2007

The Special Tahsildar,
Adi Dravidar Welfare Department,
Tindivanam.

.. Petitioner in
all CRPs.

Vs.

Venkatachala Naicker

.. Respondent in
CRP.No.2565/2007

Chandrasekaran

.. Respondent in
CRP.No.2566/2007

Udayakumar

.. Respondent in
CRP.No.2567/2007

Perumal

.. Respondent in
CRP.No.2568/2007

Civil Revision Petitions filed under Article 227 of Constitution of India, against the fair and decretal dated 10.11.2006 in C.M.A.Nos.6 to 9 of 1998 on the file of the Additional Sub-Court, Tindivanam.

For Petitioner : Mr.T.Jayaramraj
Government Advocate (CS)

For Respondents : Ms.N.Mala

COMMON ORDER

These revisions are directed against the common order dated 10.11.2006 made in C.M.A.Nos.6 to 9 of 1998 on the file of the Additinal Sub Court, Tindivanam, modifying the Award made in Award No.4/1997-98, dated 21.03.1998 passed by the Special Tahsildar-cum-Land Acquisition Officer, Adi Dravidar Welfare, Tindivanam.

2. Being dissatisfied with the quantum of compensation granted by the Special Tahsildar-cum-Land Acquisition Officer, Adi Dravidar Welfare, Tindivanam, the respondents herein have filed Civil Miscellaneous Appeal Nos.6 to 9 of 1998 before the learned Additional Sub-Court, Tindivanam.

3. Before the Court below, on the side of the respondents, 6 witnesses were examined and Exs.C1 and C2 were marked. On the side of the Land Acquisition Officer, one Tmt.Brindha, Special Tahsildar (LA), Tindivanam was examined as R.W.1 and Exs.R1 to R8 were marked.

4. Upon consideration of oral and documentary evidence, the

Court below, fixed the market value of the acquired land at Rs.5/- per square feet and after deducting the amount, which was received by the respondents under protest, directed the Land Acquisition Officer to pay the balance amount with 30% solatium and interest at the rate of 9% per annum from the date of 4(1) notification to the date of possession, less batta charges. The said amounts were directed to be deposited within a period of three months from the date of the said order.

5. Aggrieved by the common order of the Court below, the Special Tahsildar has preferred these revisions.

6. I heard Mr.T.Jayaramraj, learned Government Advocate (CS) appearing for the petitioner and Ms.N.Malathe, learned counsel appearing for the respondents in all the petitions. Perused the materials available on record.

7. The learned Government Advocate (CS) appearing on behalf of the petitioner submitted that the Court below erred in fixing the compensation at Rs.5/- per square feet from Rs.75,000/- per acre without proper appreciation of facts of the case and the evidence adduced. He submitted that taking into consideration of the data sale

deeds collected and placing reliance on the sale deed under which the lands similar in nature and classification to the lands acquired, the Special Tahsildar has fixed the compensation for the land acquired at Rs.75,000/- per acre. According to the Government Advocate, the Court below erred in not making necessary deduction towards development charges. He mainly submitted that the Court below erred in awarding solatium at the rate of 30%, whereas the provision mandate solatium at 15%. Finally, he submitted that the rate of interest awarded by the Court below is also on the higher side.

8. The learned counsel for the respondents submitted that upon considering the oral and documentary evidence produced by the respondents, the Court below has rightly determined the market value of the acquired land. The learned counsel would submit that the acquired land fetch more value than determined by the Court below. She submitted that as per law only, the Court below granted 30% solatium and interest, which warrant no interference.

9. The points arise for consideration are –

(1) Whether the Court below was right in determining the market value of the acquired land at Rs.5/- per square

feet?

(2) Whether the Court below was right in awarding 30% solatium?

3) Whether the Court below was right in awarding interest at the rate of 9% per annum from the date of 4(1) notification to the date of possession?

10. The contention of the petitioner is that taking into consideration of the data sale deeds collected at the relevant point of time and after placing reliance on the sale deed under which lands similar in nature and classification to the lands acquired, the Land Acquisition Officer has fixed the market value of the acquired land at Rs.75,000/- per acre.

11. The learned Government Advocate (CS) submitted that in respect of the agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally one-third amount of compensation has to be deducted out of the amount of compensation payable on the acquired land, whereas in the case of hand, the Court below has failed to deduct any development charges. In support of his contention, the learned Government Pleader cited the

decision in *Iyasamy and another v. Special Tahsildar, Land Acquisition*, reported in (2010) 10 SCC 464.

12. It is pertinent to note that nowhere in the Award or during examination, the Land Acquisition Officer stated that the land in question requires development. The records reveal that the purpose for acquisition is for forming a burial ground and pathway to the Adi-Dravidas. Therefore, there is no need for any development of the area. In such view of the matter, the decision in *Iyasamy* (supra) cited by the learned Government Pleader has no application to the case on hand.

13. It is to be noted that the Land Acquisition Officer collected 70 sale deeds for comparison and after discarding 69 sale deeds, he has taken Serial No.64-sale deed dated 07.02.1995, wherein 64 cents in S.No.278/2 was sold for Rs.48,000/-. Based upon the said sale deed, the Land Acquisition Officer, fixed the market value of the acquired land at Rs.75,000/- per acre.

14. Stating that the market value fixed by the Land Acquisition Officer at the rate of Rs.75,000/- per acre is very low, the respondents

have produced Exs.C1 and C2-sale deeds. As per Ex.C1-sale deed, per square feet was sold at the rate of Rs.32.40. Like wise, Ex.C2 shows that per square feet of the land was sold at the rate of Rs.35.70. According to the respondents, the aforesaid two sales were before the 4(1) notification and therefore, they can be taken into account for determining the market value. But the Court below, discarding the aforesaid two sale deeds produced by the respondents on the ground that those sales were not in between 25.11.1992 and 25.11.1995. Finally, taking into consideration of the vicinity of the land and the other physical features of the lands acquired, fixed the market value at Rs.5/- per square feet. Considering the oral evidence adduced by the respondents and also taking note of the classification of the lands acquired, the Court below has rightly fixed the market value at Rs.5/- per square feet and the same warrants no reduction.

15. During arguments though the learned counsel for the respondents submitted that the acquired land fetch more value, admittedly, the respondents have not preferred any appeal challenging the value determined by the Court below. In such circumstances, I do not find any error committed by the Court below in determining the market value at the rate of Rs.5/- per square feet for the acquired

lands.

16. Now, coming to granting of solatium at 30% and interest at the rate of 9% are concerned, the learned Government Pleader submitted that the statutory provision of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978) (hereinafter referred to as "the said Act"), mandate solatium at 15% and interest at 6% per annum.

17. As regards the grant of solatium qua acquired lands, it would be relevant to refer to Section 7(2) of the said Act, which deals with determination of the compensation.

18. Section 7(2) of the said Act provides as under:

"7(2). In addition to the market value of the land as provided above, the prescribed authority shall, in every case, award a sum of fifteen per centum on such market value as solatium in consideration of the compulsory nature of the acquisition."

In view of Section 7(2) of the said Act, I am of the view that the Court below was not right in granting 30% solatium and the same is

modified as 15%.

19. Coming to the rate of interest awarded by the Court below, it is necessary to refer to Section 12 of the said Act, which states about the payment of interest. Section 12 of the said Act reads as under:

"Payment of interest.-- When the amount is not paid or deposited on or before taking possession of the land, the prescribed authority shall pay the amount with interest thereon at the rate of six per cent per annum from the time of so taking possession until it shall have been so paid or deposited and such interest shall be paid or deposited by the prescribed authority in the same manner as provided for the amount."

20. As such, it is settled that as per Section 12 of the Act, the amount is payable with flat rate of interest at the rate of 6% per annum from the date of taking possession. Therefore, the rate of interest awarded by the Court below is modified as 6% per annum from the date of taking possession.

21. In nutshell, the compensation determined at Rs.5/- per square feet by the Court below is confirmed. The solatium is reduced

to 15% in view of Section 7(2) of the said Act instead of 30% and the rate of interest is fixed at 6% per annum as provided in Section 12 of the said Act.

22. In view of the foregoing discussion, all the Civil Revision Petitions are allowed in part to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

25.04.2018

vs

Index : Yes

Internet : Yes

To

The Additional Sub-Court,
Tindivanam.



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M.V.MURALIDARAN,J.

VS



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