



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.12.2017/
Judgment on : 28 .04.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(MD)No.784 of 2013

and M.P. (MD)No.6160 of 2017

The Land Acquisition Officer,
The Special Tahsildar,
Adi-Dravidar Welfare, Unit-2,
Dindigul.

... Revision Petitioner/Respondent/
Referring Officer

Vs.

Thiru K.Kuppu samy Gounder ... Respondent/Appellant/Claimant

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India against the judgment and decree dated 04.02.2010 passed in C.M.A. No. 08 of 1999 on the file of the Sub Court, Palani modifying the award dated 17.03.1999.

For Petitioner : Mr. C.Kumar
Government Advocate
For Respondent : Mr.T.Lenin Kumar

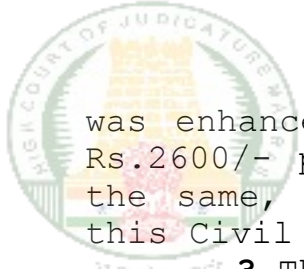
O R D E R

This Civil Revision Petition has been preferred by the Land Acquisition Officer challenging the judgment and decree rendered in C.M.A. No.08 of 1999 on the file of the Sub Court, Palani, modifying the award dated 17.03.1999.

2. The facts in brief:

2.i) An extent of 0.81.0-2 Acres in Survey No.410/4B situated in Ottanchathram Taluk, Puliymarthukkottai Village, Dindigul District has been acquired for the purpose of providing house sites to the landless Adi Dravida people. The Notification under Section 4 (1) of Land Acquisition Act has been published on 10.01.1999 and an award was passed by the Land Acquisition Officer on 17.03.1999 fixing the total compensation at Rs.28,153/-.

<https://hcservices.ecourt.gov.in/hcservices/> Being not satisfied with the said amount, the respondent/claimant filed an appeal in C.M.A.No. 8 of 1999 before the Sub Court, Palani and the award of the Land Acquisition Officer



was enhanced by the Sub Court, Palani, fixing the compensation at Rs.2600/- per cent with 30% solatium and 15% interest. Challenging the same, the Land Acquisition Officer has come forward to file this Civil Revision Petition before this court.

3. The learned Government Advocate appearing for the petitioner would submit that the Court below erred in enhancing the market value exorbitantly from Rs.150/- per Cent to Rs.2600/- per Cent, which is violation of the principles laid under the Land Acquisition Act. The value taken as evidence for enhancing the land value is incorrect. The Tribunal has failed to deduct 55% of the amount from the market value fixed by the court on the ground of development charges.

4. The learned Government Advocate appearing for the petitioner would further argue that the land acquired was only agricultural land on the date of acquisition and it cannot be fixed with the land sold for house site purpose.

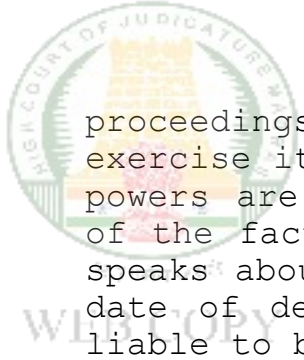
5. The learned counsel appearing for the respondent/claimant submits that the claimant is a Farmer by profession and only through the income derived from agriculture, he was eking out himself and his family and since the land was acquired, the claimant lost his earning source and therefore, he is struggling a lot even for basic needs and having acquired the land of the claimant, the Land Acquisition authorities make him to run from pillar to post to get the compensation amount.

6. Heard the learned counsel for the petitioner and learned counsel for the respondent/claimant and perused the materials available on record.

7. As discussed above, admittedly, the court below has not taken into consideration deduction towards developmental charges. However, this Court find considerable force in the submissions made by the learned counsel for the respondent that the documents relied upon by the respondent, are pertaining to the year 1998. Since 4(1) Notification was passed in the year 1999 and the Sale Deeds relied upon by the court below are pertaining to the years 1998, at least 10% enhancement for each year ought to have been given by the court below. Therefore, taking note of the said fact, this Court is of the view that the compensation fixed by the court below is just and reasonable and does not warrant any interference.

8. Insofar as solatium and interest is concerned, the court below has awarded solatium at 30% with subsequent interest at 12% from the date of Notification to the date of the award and thereafter, interest at the rate of 9% for a period of one year from the date of award and further the interest at the rate of 15% has been awarded.

9. The said award passed by the court below is absolutely one without jurisdiction, power of authority. In a



proceedings for fixing compensation, the court of law has to exercise its power only under the Act and not beyond the same as its powers are circumscribed by the statute. Therefore, by taking note of the fact that Act provides for only 15% solatium and Section 12 speaks about 6% interest from the date of taking possession to the date of deposit, this Court is of the view that award passed is liable to be modified.

10. Accordingly, this Civil Revision Petition is allowed in part, in so far as the solatium and interest portion is concerned. Accordingly, the solatium awarded by the court below at 30% is reduced to 15% and the interest awarded by the court below is reduced to 6% from the date of taking possession to the date of deposit. No costs. Consequently, connected C.M.P.(MD) No.6160 of 2017 is closed.

Sd/-

Assistant Registrar (CSIII)

/True Copy/

Sub Assistant Registrar

CM-VR

To,

The Sub Court,
Palani.

+1CC to Mr.T.Lenin Kumar, Advocate, SR.No. 64532

JAM/23/05/2018/ JC/SAR 3/ 3P-3C

order in
C.R.P.NPD (MD) No. 784 of 2013
& C.M.P. (MD) No.6160 of 2017
28.04.2018