



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2018

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDARSecond Appeal (MD) No.566 of 2017
andC.M.P.(MD)No.12113 of 20157

The Special Tahsildar (Land Acquisition),
Adi Dravidar Welfare Scheme,
Virudhunagar,
Having Office at Collectorate Building,
Master Plan Complex,
Virudhunagar

: Appellant / Respondent
/Land Acquisition Officer

-Vs-

1.G.Veilmuthu (Died)
2.Nagarathinam
3.Ushadevi
4.Mythili
5.Elangovan
6.Parthiban
7.Kathirvel

: Respondents /Appellants / Claimants

Prayer: Second Appeal filed under Section 100 of the Code of the Civil Procedure against the Judgment and Decree dated 06.02.2017 made in C.M.A.No.14 of 2003 on the file of the learned Additional District Judge, Virudhunagar, reversing the award No.3/2000-2001 dated 05.03.2001 on the file of the Special Tahsildar (LA) Adi Dravidar Welfare, Virudhunagar praying the same to be set aside.

For Appellant :Mr.R.Velmurugan
Additional Government Pleader

For R2 to R7 :Mr.D.Sakkaravarthi
For R1 : Died

JUDGMENT

This Second Appeal has been filed against the Judgment and Decree dated 06.02.2017 made in C.M.A.No.14 of 2003 on the file of the learned Additional District Judge, Virudhunagar, reversing the award in proceedings No.3/2000-2001 dated 05.03.2001 on the file of the Special Tahsildar (LA) Adi Dravidar Welfare, Virudhunagar.



2. The brief facts that are necessary for the disposal of this appeal are as follows:

2.1. Lands belonged to the respondents and others measuring to an extent of about 1.97.5 hectares equivalent to 4.88 acres were acquired by the District Collector, vide notification under Section 4(1) of Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 (Tamil Nadu Act of 1978). The notification under Section 4 (1) of the Act was published in the Gazette on 31.07.1999 and 20.10.1999 and published locality on 14.03.2000 and for the acquired lands, award was also passed by the appellant on 05.03.2001, fixing compensation at the rate of Rs.87,133/- per acre. Aggrieved by the award, the respondents preferred an appeal before the Additional District Judge, Virudhunagar in C.M.A.No.14 of 2003. By judgment and decree dated 06.02.2017, the award was modified by the appellate Court by enhancing the compensation from Rs.87,133/- per acre to Rs.4,00,000/- per acre. Aggrieved by the judgment and decree of the appellate Court, fixing the compensation at the rate of Rs.4,000/- per cent, the Special Tahsildar (Land Acquisition), has preferred the present appeal.

3. Sum and substance, the points raised by the learned Additional Government Pleader are as follows:

(a) the first appellate Court enhanced the compensation, exorbitantly, in violation of the procedures laid under the Land Acquisition Act, 1894;

(b) no deduction has been made by the first appellate Court towards development; and

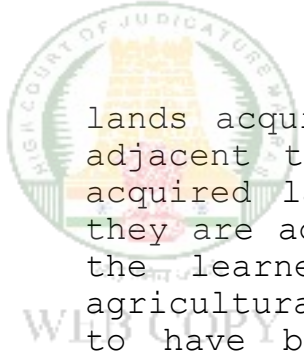
(c) the first appellate Court has enhanced the compensation on the basis of a sale deed pertaining to house sites and proper deduction was not applied by the appellate Court.

4. It was the specific contention of the learned Additional Government Pleader that a deduction of 50% in the total value ought to have been done for development into house site and that the value was fixed with reference to the sale deed in respect of smaller extent of land.

5. This Court, though able to find some substance in the contention with regard to deduction, is not inclined to entertain this appeal, for the following reasons:

(a) it is not in dispute that the entire extent of land has been acquired for the purpose of providing house site to Adi Dravidars of Allampatti Village and Kottaipatti Village;

(b) The award was passed by the lower Court, after referring to nearly 195 documents and most of the documents were discarded only on the ground that the value of the property fixed in the document is more than the market value. Absolutely, there was no discussion about the market value with reference to any other document except the two documents. No other sale deed is produced by the appellant before the lower Court. Even in the award, it was admitted that



lands acquired on earlier occasion for similar purpose are located adjacent to the property acquired now. Since, the fact that the acquired lands are capable for utilizing as house sites and that they are adjacent to the existing housing colony, the contention of the learned Additional Government Pleader that the lands are agricultural lands and deduction towards development charges ought to have been more than the ratio that was adopted, cannot be accepted.

6. It is also to be noted that the sale deed relied upon by the first appellate Court shows that the market value of the land dealt with thereunder was Rs.6,060/- per cent. After referring to the judgment of the Honourable Supreme Court in the case of *Asrafi and others vs. State of Haryana and others* (2014 (2) MWN(Civil) 555), the first appellate Court allowed a deduction of 1/3rd for developmental expenses. Hence the conclusion of the first appellate Court allowing 1/3rd deduction towards developmental charges and fixing the compensation as Rs.4,000/- per cent cannot be faulted.

7. The land was acquired in the year 2000 and this appeal has been preferred in the year 2017 after a lapse of 17 years. It is to be noted that though award was passed in the year 2001, only a sum of Rs.87,133/- was awarded as compensation. The reason for discarding documents on the ground that they reflect higher price, in the award indicates that the acquired lands are surrounded by potential lands. Since the lands are acquired for utilizing them as house sites and they are adjacent to the lands that were acquired earlier for similar purpose, the lower Court has accepted the contention of the lands owners, to award compensation by treating the lands as house site or as potential lands capable of utilizing as house sites. It is doubtful whether the land owners would be able to buy even 10% of their holding, with the compensation that is now fixed by the lower Court. In such circumstances, this Court is not inclined to entertain this appeal. Hence, this second appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Additional District Judge, Virudhunagar.
- 2.The Special Tahsildar (LA), Adi Dravidar Welfare, Virudhunagar.
- 3.The Section Officer, Vernacular Records (2 copies),
Madurai Bench of Madras High Court, Madurai.
- +One cc to Mr.D.Sakkaravarthi, Advocate, SR.No.40024
- +One cc to The Special Government Pleader, SR.NO.40013

cmr

RL/7C/3P/KKR/SAR1/29/1/2018

Second Appeal (MD) No.566 of 2017