

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

S.A.Nos.1017 and 1018 of 2008
and M.P.Nos.1 and 1 of 2008

Special Tahsildar (ADW)
Kangeyam

.. Appellant in both S.As/
Land Acq.Officer

vs.

1.Easwara Murthi
2.Ramathaal
3.Kannammal
4.Poovathal

.. Respondents in S.A.No.1017 of 2008

(RR1 to 4 has been included as the legal heirs of deceased respondent vide order dated 30.08.2001 in I.A.No.225 of 2005 and the correction was carried out in the Original Decree as per order dated 31.10.2005 passed in I.A.NO.412 of 2005)

1.S.Periyasamy (Died)
2.Lakshmi
3.Tamilselvi
4.Santhi
5.Muthusamy

.. Respondents in S.A.No.1018 of 2008

(RR2 to 5 Brought on record as LRs of the deceased sole respondent vide order of court dated 03.08.2015 made in MP.NO.1 to 3 of 2015 in S.A.NO.1018 of 2018)

COMMON PRAYER: Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of land for ADW Schemes Act 31/78 r/w Section 100 of Civil Procedure Code against the Judgment and Decree dated 08.02.2007 made in C.M.A.Nos.4 and 5 of 2001 on the file of the Principal Sub Court, Erode modifying the award dated 13.12.2000 made in Award No.4/2000-2001 passed by the Land Acquisition Officer-cum-Special Tahsildar, (Adi Dravidar Welfare), Kangeyam.

For Appellant in
both S.As. : Mr.Dev Narendaran
Government Advocate

For Respondents in
S.A.No.1017 of 2018 : Mr.T.Murugamanickam(SC)
for Mr.V.Rajesh for R1 to R4

For Respondents in
S.A.No.1018 of 2018 : Mr.T.Murugamanickam(SC)
for Mr.V.Rajesh for R2 to R5

COMMON JUDGMENT

These two appeals arise out of a common Order of the Principal Sub Court, Erode in C.M.A.4 of 2001 and C.M.A. 5 of 2001.

2. The matter arises out of acquisition of land for Harijan Welfare Schemes Act 31/78, for formation of a housing colony for Adi Dravidas. The properties sought to be acquired were comprised in S.No.215/2B and S.Nos.218/1B and 218/6A, 218/7 to 218/9. These properties were agricultural lands, and they were sought to be converted into a housing colony. The Section 4(1) Notification was issued by the Collector of Erode District on 22.03.2000. On 13.12.2000, an award was passed in this case and the Land Acquisition Officer has relied on the sale deed dated 25.02.1997.

3. The property involved in the acquisition is in S.No.218/5 and it deals with 45 cents of agricultural land. The consideration paid under the document is Rs.15,000/-. Based on this, the Land Acquisition Officer has determined the compensation at Rs.24,324/- per acre. Being dissatisfied with the compensation awarded, the land owners had preferred separate appeals before the Principal Sub Court, Erode. The land owners/respondents herein have produced two sale deeds, both dated 12.06.1998 before the Principal Sub Court, Erode, conveying 30 cents of land in S.No.218/5 for total consideration of Rs.60,000/-. The First Appellate Court relied on these documents and since these documents are more proximate to the date of Section 4(1) notification, it determined the total compensation payable at Rs.2,00,000/- per acre. This is now in challenge.

4. This appeal is not yet admitted. Notices were ordered to be served on the respondents. Accordingly, notices were served and the respondents have made their appearance. Heard both sides.

5. The only Substantial question of law is framed for consideration:

"Whether the award passed is in tune with the law?"

6. On hearing the learned counsel for the appellant, and on perusing the records, this Court must record that primarily that there is no error in the approach of the First Appellate Court, since the appellant has not been able to show a better document than Ex.P-1 and Ex.P-2, which the First Appellate Court has relied on. However, the First Appellate Court has been in error for not making provision for development charges. To that extent, the award passed by the lower Appellate Court needs to be interfere with.

7. This Court therefore, decides to deduct 1/3rd towards development charges. Since this comes to an irrational number as Rs.66,666.66 per acre, this Court rounded it of to Rs.67,000/- per acre. Accordingly, the compensation amount payable on the value of the property is reduced to Rs.1,33,000/- per acre. The appellant is directed to pay the sum with consequential interest etc.

8. In the result, these Second Appeals are partly allowed in the manner indicated above and the decree of the first appellate Court in C.M.A.No.4 of 2001 and C.M.A.No.5 of 2001 are modified accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msv

To

1. The learned Principal Sub Judge,
Erode.
2. The Land Acquisition Officer,
Cum Special Tahsildar,
(Adi Dravidar Welfare)
Kangayam.

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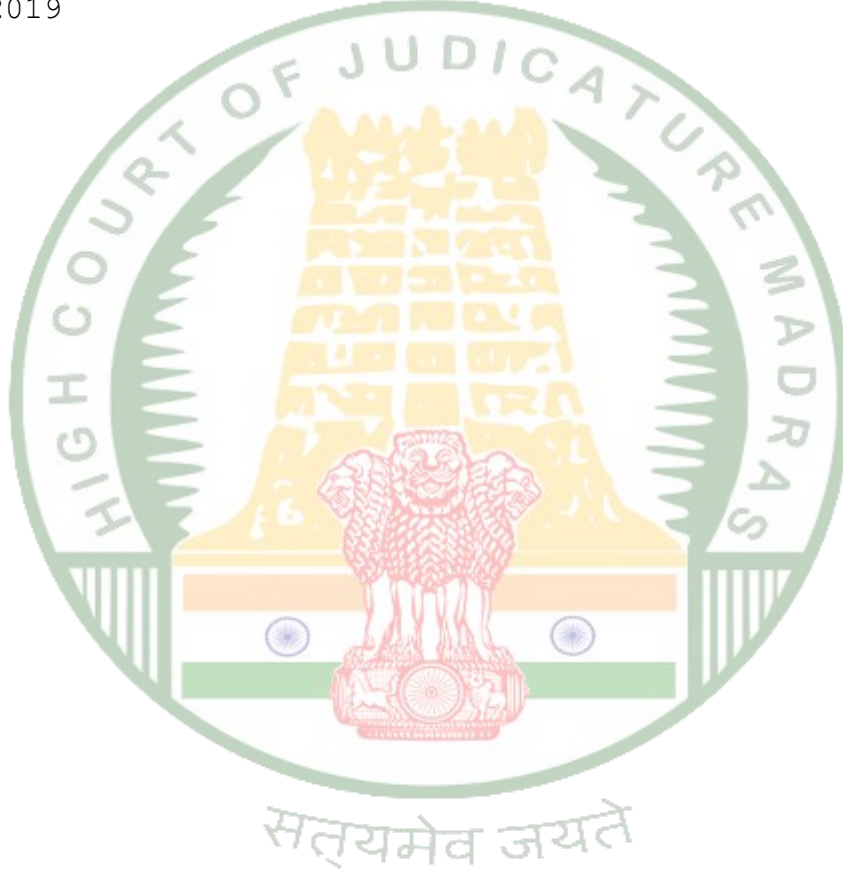
The Section Officer,
VR Section, High Court,
Madras-104

+1cc to Mr.V.Rajesh, Advocate, S.R.No.2853

+1cc to the Special Government Pleader, S.R.No.2943

S.A.Nos.1017 and 1018 of 2008
and M.P.Nos.1 and 1 of 2008

SAI (CO)
CS/10/07/2019



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