

]IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.11.2019

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A. No.1143 of 2008

The Special Tahsildar (ADW),
Ulundurpet,
Villupuram District.

Land Acquisition Officer/Respondent
... Appellant

Vs

K.C.Munusamy Mudaliar

... Claimant/Appellant/ Respondent

PRAYER: Second Appeal filed under Section 100 C.P.C. against the judgment and decree made in C.M.A.No.20 of 2000 dated 27.12.2004 on the file of the Principal Subordinate Judge, Villupuram modifying the award made in Award No. 1/99-2000 dated 25.03.1999 passed by the Special Tahsildar, (Adi dravidar Welfare), Ulundurpet.

For Appellant : Mr.A.Devnarendran,
Government Advocate

For Respondent : No appearance

JUDGMENT

This Second Appeal has been filed challenging the Judgement and decree dated 27.12.2004 passed by the learned Principal Subordinate Judge, Villupuram in C.M.A.No.20 of 2000 modifying the award passed in Award No. 1/99-2000 dated 25.03.1999 passed by the Special Tahsildar, (Adi Dravidar Welfare), Ulundurpet.

Brief facts leading to the filing of this Appeal:

2. The lands at Kandachipuram Village, Thirukoilur Taluk, Villupuram District measuring an extent of 2.34.5 hectares i.e., 579.22 cents belonging to the respondent were acquired by the Appellant for the purpose of free house site patta to Adi

Dravidars under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. The Award dated 25.03.1999 was passed by the land acquisition officer in Award No.1/98-99 in Na.Ka.No.A/2808/97 fixing the compensation payable to the respondent at Rs.400/- per cent and a total compensation of Rs.2,66,439/- was awarded to the respondent for the lands acquired by the Appellant.

3. The Award dated 25.03.1999 passed by the land acquisition officer was challenged by the respondent before the Principal Sub Court, Villupuram in LACMA.No.20 of 2000. The learned Principal Subordinate Judge, Villupuram by its Judgment and decree dated 27.12.2004 partly allowed the appeal by enhancing the compensation payable to the respondent at Rs.1,000/- per cent instead of Rs.400/- per cent awarded by the land acquisition officer. A solatium of 15% and 6% interest was also awarded to the respondent till the date of payment.

4. Aggrieved by the enhancement of compensation by the Principal Sub court, Villupuram, the special Tahsildar, Ulundhurpet has filed this second appeal.

5. Heard Mr.A.Devnarendran, learned Government Advocate appearing for the Appellant. Despite service of notice on the respondent and his name having been printed in the cause list today, no one has entered appearance on the side of the respondent.

6. While arriving at the compensation payable to the respondent, the Principal Sub Court, Villupuram had taken into consideration the Data sale deed dated 19.07.1993 which was marked as Ex.A3. As per Ex.A3, the market value of land at kandachipuram Village, Thirukoilur Taluk, Villupuram District is Rs.1,500/- per cent. However, the data sale deed dated 14.03.1997 filed by the Appellant which was marked as Ex.B1 pertains to an agricultural land and as per the said sale deed, the market value of land at Kandachipuram Village, Thirukoilur Taluk, Villupuram District is Rs.400/- per cent.

7. Before the Principal Sub Court, Villupuram, the Appellant's own witness RW1 has admitted in his deposition that the subject land acquired by the Appellant is a residential land and not an agricultural land. Even though, the respondent had produced the sale deed Ex.A3 which discloses that the market value of the land is Rs.1,500/- per cent, the learned Principal Subordinate Judge, Villupuram under the impugned Judgment and decree has reduced the same to Rs.1,000/- per cent. Further the sale deed Ex.B1 submitted by the Appellant before the Court below pertains to an agricultural land and not to a residential land. Admittedly, the land acquired by the Appellant as seen

from their own evidence placed before the lower appellate court through their witness RW1, the subject lands are residential lands. Therefore, the Appellant cannot rely upon the sale deed (Ex.B1) which they had placed before the court below.

8. The lower appellate court has considered the materials and evidence available on record and only thereafter has assessed the market value of the lands belonging to the respondent and acquired by the Appellant at Rs.1,000/- per cent.

9. This Court does not find any perversity in the findings of the Trial Court. In fact, in similar matters involving acquisition of neighbouring lands where second appeals were filed by the Special Tahsildar, Ulundhurpet, Villupuram District, this Court has dismissed the Second Appeals. In view of the same and in view of the fact that there is no perversity in the findings of the Court below, there is no substantial question of law involved in this second appeal.

10. In the result, there is no merit in this second appeal and the Judgement and decree dated 27.12.2004 passed by the Principal Subordinate Judge, Villupuram in CMA.No.20 of 2000 is hereby confirmed. Accordingly, the appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

N1

To

1. The Principal Subordinate Judge,
Villupuram.
2. The Special Tahsildar,
(Adi dravidar Welfare), Ulundurpet.

+1cc to the Special Government Pleader, S.R.No. 93711

S.A. No.1143 of 2008

PVS(CO)
GN(15/09/2020)