

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.08.2019

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

S.A.Nos.564 & 565 of 2008

The Special Tahsildar,
Adi Dravidar Welfare Dept.,
Tindivanam

...Appellant in both S.As

Vs.

1.Satyamurthi
2.Durairaj
3.Selvaraj
4.Jayamurthi Reddiar

...Respondents in S.A.564/2008/ Appellants

Rep.by General power of
Attorney P.Thambumuthu Reddiar

1.Sakuntala ammal (deceased) ...1st Respondent/ Appellant

2.Ramani

3.Jothy ... Respondents 2&3(in S.A.565/08)

(RR2 and 3 brought on record as
LRs of the deceased sole respondent
vide order of court dated 19.11.2014
made in M.P.No.1 to 3/10 in S.A.No.565/08)

Common Prayer:- Second Appeals filed under Section 13 of Tamil Nadu Acquisition of Land for ADW Scheme Act 31/178 r/w section 100 of Civil Procedure Code against the Judgment and Decree made in C.M.A.No.6 & C.M.A.No.8/1999 dated 31.07.2006 on the file of the Principal Sub-Court, Tindivanam Taluk, Villupuram District modifying the award made in Award No.4/1998-1999 dated 17.11.1998 passed by the Special Tahsildar cum Land Acquisition Officer, Adi Dravidar Welfare, Tindivanam.

For Appellant : Mr.N.Manikandan, G.A. (CS)
For Respondents : Mr.N.Suresh

COMMON JUDGMENT

The appellant herein is the Land Acquisition Authority under Tamil Nadu Acquisition of Land for Harijan Welfare

Scheme. An award dated 17.11.1998 was passed wherein the market value of the property was reckoned at Rs.1,54,128/- per hectare. This works out to Rs.624/- per cent. Dissatisfied with the said amount, the respondents in both appeals have preferred statutory appeal in C.M.A.No. 6 of 1999 and C.M.A.No.8 of 1999, before the Principal Sub-Court, Tindivanam.

2.1 Before the Appellate Court, the respondents have adduced oral and documentary evidence, and in particular relied on Ext.A1 dated 01.09.1999 and Ext.A2 dated 26.03.1998, both of which are the sale deeds to support their claims for enhancement of compensation. As per Ext.A2, the market price of the adjacent land was Rs.1,150/- per cent, and as per other document i.e. Ext.A1, the market value is Rs.1,200/-. It may be stated here that notification of the District Collector issued under Section 4(1) of the Act is dated 06.04.1998.

2.2. The Appellant herein has relied on the sale deed dated 14.07.1995, where the consideration is fixed at Rs.623/- per cent. Considering the fact that the date of sale deed relied on by the Appellant is far distanced from Ex.A2, which is hardly 10 days from the date of 4(1) Notification, the Trial Court passed a decree enhancing the compensation by reckoning the market price at Rs.1150/- per cent. This is now in challenge.

3. These appeals are admitted on the following substantial questions of law:

(1) Whether the Court below failed to appreciate the provision of Section 8 of Act 31/1978 wherein the classification of the land as on date of acquisition is the criteria for fixation of compensation and not the purpose for which it has been acquired?

(2) Whether the Court below had erred in not appreciating the various judgments of the Hon'ble Court as well as the apex court wherein it has been categorically laid down that the small extents of land cannot be relied on for fixation of compensation for large extent of lands as reported in 1998 (2) SCC 150 and 1995 (5) SCC 426 and 2003 (12) SCC 334?

(3) Whether the court below had erred in not appreciating the provisions of Act 31/1978 wherein the land only similar in nature to

the land acquired has to be relied upon for determination of compensation?

(4) Whether the court below had erred in awarding interest at the rate of 12% per annum whereas the statutory provisions of Act 31/1978 mandate only provides for uniform rate of interest at 6% as per section 12 of the Act?

4. The learned counsel for the appellant emphasized on the fact that the extent of land covered under Ext.A2 is far less than the extent actually acquired. On the face of it, this argument has to fail, for the extent covered under the data document relied on by the Land Acquisition Officer is 25 cents, whereas the one involved in Ext.A2, has an extent of 30 cents. This would imply that the State appears to have opted for the least value and not the best market value, to which the owners of the lands acquired would be entitled to. Turning the substantial questions of law, this Court has to hold that the exercise undertaken by the Appellate Court is one on facts, and this Court does not find any perversity in the award passed by the Appellate Court. In conclusion, all substantial questions of law fail, and decided against the appellant.

5. The learned Government Advocate submitted that the compensation amount awarded in S.A.No.564 of 2008 is Rs.2,77,430/- & Rs.4,68,876/- and in S.A.No.565 of 2008 is Rs.1,32,550/- and Rs.2,56,402/-. He also submitted that the entire compensation amount has been deposited in the Court and the respondents are free to withdraw the same.

6. In the result, these second appeals are dismissed and the judgment and decree made in C.M.A.No.6 & C.M.A.No.8/1999 dated 31.07.2006 on the file of the Principal Sub-Court, Tindivanam Taluk, Villupuram, are hereby confirmed. No costs. Consequently, the connected civil miscellaneous petition if any is closed.

Sd/-
Assistant Registrar (CS III MDU)

//True Copy//

Sub Assistant Registrar

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To:

1.The Principal Subordinate Judge,
Tindivanam.

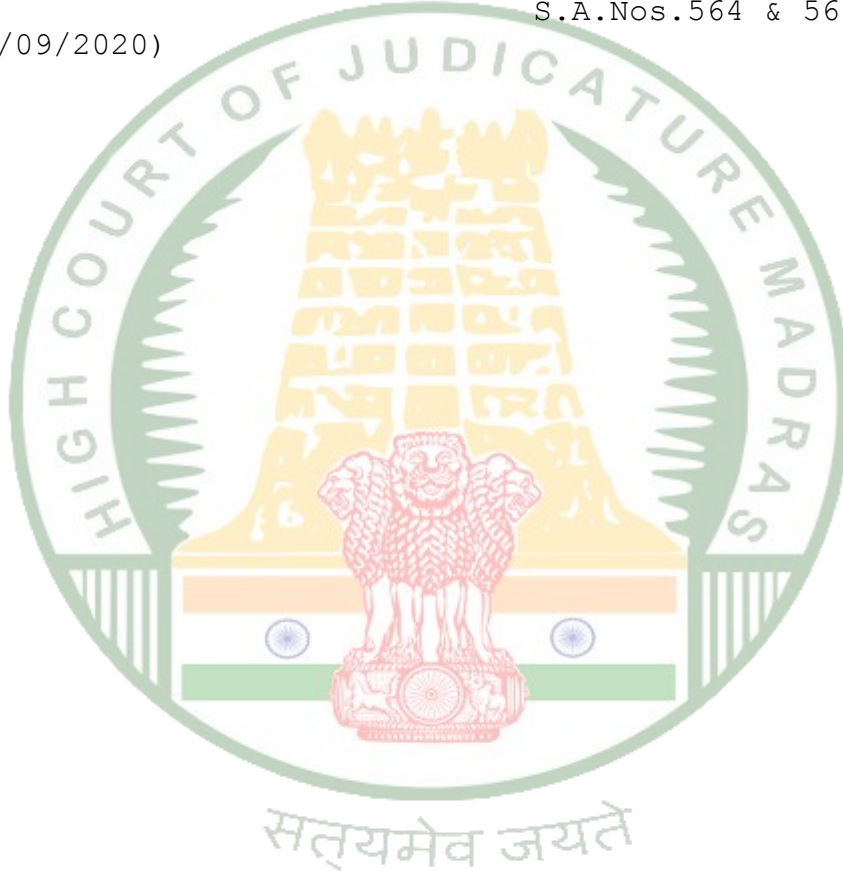
Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.N.Suresh , Advocate SR.No. 71724

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A.SK(28/09/2020)



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