

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A. No.854 of 2007

The Special Tahsildar (ADW),
Vandavasi

... Appellant/Respondent/
Land Acquisition Officer

Vs

V. Arunachala Reddiar

... Respondent /Appellant/Claimant

Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of land for Harijan Welfare Schemes Act (Act 31/78) read with Section 100 of the Civil Procedure Code against the Judgment and decree dated 03.04.2003 made in L.A.C.M.A. No.31 of 2000 on the file of Sub Court, Cheyyar modifyig the award dated 26.03.1997 made in Award No.19/96-97 by the Land Acquisition Officer, Vandavasi.

For Appellant : Mr.A.Dev Narendiran
Government Advocate

For respondent : Mrs.V.Srimathi

JUDGMENT

This Second Appeal has been filed challenging the Judgment and decree dated 03.04.2003 passed by the Sub Court, Cheyyar in L.A.C.M.A. No.31 of 2000 modifying the award dated 26.03.1997 made in Award No.19/96-97 by the Land Acquisition Officer, Vandavasi.

Brief facts leading to the filing of this Appeal:

2. The lands at Thellar Village, Vandavasi Taluk measuring an extent of 1.47.5 hectares i.e., 3.64 acres belonging to the respondent were acquired by the Appellant for the purpose of allotting free house sites to Adi Dravidars under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. An Award dated 26.03.1997 was passed by the land acquisition officer in Award No.19/1996-97 in Na.Ka.No.A/2052/95 fixing the

compensation payable to the respondent at Rs.25,075/- per acre and a total compensation of Rs.1,05,206/- was awarded to the respondent by the Appellant.

3. The Award dated 26.03.1997 passed by the land acquisition officer was challenged by the respondent before the Sub Judge, Cheyyar in LACMA.No.31 of 2000. The learned Sub Judge, Cheyyar by its Judgment and decree dated 03.04.2003 partly allowed the appeal by enhancing the compensation amount. The learned Sub Judge, Cheyyar fixed the compensation amount at Rs.1,250/- per cent and the total compensation for acquisition of 3.64 acres was enhanced to Rs.5,23,500/- with interest at the rate of 6 % per annum till the date of payment. The total compensation included compensation for the palm trees at Rs.250 per palm tree and 15% solatium. The Sub Court, Cheyyar also held that the respondent is entitled to 1/3rd of the total compensation amount and determined the amount payable to the respondent at Rs.1,39,431/-.

4. Aggrieved by the enhancement of compensation by the Sub Court, Cheyyar, the Special Tahsildar, Vandavasi has filed this second appeal.

5. Heard Mr.A.Devnarendran, learned Government Advocate appearing for the Appellant and Mrs.V.Srinithi, learned counsel appearing for the respondent.

6. This Court at the time of admission of this second appeal formulated the following substantial question of law:

" 1. Whether the lower appellate court has committed an error of law in not deducting 1/3rd of the amount from the market value towards the development charges?

7. While arriving at the compensation payable to the respondent, the Sub Judge, Cheyyar had taken into consideration the Data sale deed dated 13.12.1989 which was marked as Ex.C1. As per the said sale deed, the land is situated within three furlongs from the acquired property measuring an extent of 7 cents was sold for a sum of Rs.9,200/- i.e. at the rate of Rs.1,250/- per cent. The subject lands belonging to the respondent was acquired on 31.08.1996. The Sub Court, Cheyyar based on Ex.A1, Data sale deed dated 13.12.1989 has fixed the land value at Rs.1,250/- per cent.

8. It is an undisputed fact that in a normal market scenerio, real estate prices keep increasing year after year. The Data sale deed taken by the Sub Court, Cheyyar is of the year 1989, though the lands were acquired only in the year 1996.

Under normal circumstances, while considering the real estate trend, the respondent's lands would have fetched a higher price in the year 1996 when compared to the price in the year 1989 which is the year of the Data sale deed produced by the respondent. Despite the same, since no other evidence was available with regard to the market value, the Sub Court, Cheyyar had no other option left but to accept the value found in the Data sale deed dated 13.12.1989 Ex.A1. No further deduction in the market value of the subject lands as claimed by the Appellant can be granted, in view of the fact that even as early as in the year 1989 itself, the market value of the lands within the vicinity of the acquired lands was fetching a market value of Rs.1,250/- per cent.

9. Further, as seen from the evidence available on record, it is an undisputed fact that there are several industries in the vicinity of the acquired lands. This being the case, the compensation determined at the rate of Rs.1,250/- per cent by the Sub Court, Cheyyar does not call for any interference. The Sub court, Cheyyar in the impugned judgement has taken into consideration the situation of the land, relative location and its advantages while awarding compensation.

10. The Data land taken by the Special Tahsildar (ADW) (Appellant) pertains to Survey No. 589/2 measuring an extent of 0.52 acres and in Survey No.589/5 measuring an extent of 0.15 acre, totalling an extent 0.565 acres were sold for 16,800/- as per sale deed dated 06.06.1995 registered as document No. 558/1995. The Survey No. 589 is not the subject matter of the acquisition. No evidence has been placed by the Appellant regarding the vicinity of the lands which falls in Survey No.589. It is not established by the Appellant that the lands in Survey Number.589 falls within the vicinity of the acquired lands belonging to the respondent. The classification of the lands which falls in survey No.589 described in the sale deed registered as document No.558/1995 relied upon by the Appellant is also not known. All these factors were taken into consideration by the Sub Court Cheyyar and only thereafter the court has enhanced the compensation based on the Data sale deed dated 13.12.1989 Ex.C1.

11. Insofar as development charges are concerned, the Appellant has not let in any evidence to establish that they are entitled for deductions from and out of total compensation amount towards development charges. It is not mandatory that in all cases development charges will have to be deducted. The Sub Court, Cheyyar, based only on the evidence available on record, has awarded compensation without any deduction towards development charges.

12. The Sub Court, Cheyyar, by the impugned Judgment and Decree has taken into consideration the materials and evidence available on record and only thereafter, has enhanced the compensation in favour of the respondent. The land acquisition officer in its award dated 26.03.1997 has awarded a meagre compensation to the respondent without any evidence as it has not been established that the Data sale deed registered as document No.558/1995 is within the vicinity of the acquired lands. The Court below has rightly determined the compensation amount in accordance with Section 7 of the Tamil Nadu acquisition of Land and Harijan Welfare Schemes Act, 1988.

13. For the foregoing reasons, the substantial question of law formulated by this Court on 24.08.2007 is answered against the Appellant, since there is no merit in this second appeal. The Judgement and decree dated 26.03.1997 passed by the Sub Judge, Cheyyar in LACMA.No.31 of 2000 is hereby confirmed. Accordingly, the appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Judge,
Cheyyar.
2. The Land Acquisition Officer,
Vandavasi.
3. The Special Tahsildar (ADW),
Vandavasi .

+1cc to the Special Government Pleader Sr.95677
+1cc to Mr.V.Raghavachari, Advocate Sr.95869

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srg 24/08/2020