

] 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.892 of 2010

&

M.P.No.1 of 2010

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

...Appellant/Respondent/Referring
officer

Vs

1.Ponnusamy Konar
2.Punithavathi
3.Dakshinamoorthy
4.Minor Karthikeyan
5.Minor Sathiya

... Respondents/Appellants/Claimants

(Minors 4 & 5 represented by
their next friend mother,
Punithavathi Ammal)

PRAYER: Second Appeal filed under Section 100 C.P.C. against the judgment and decree made in C.M.A.No.18 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 (CS)

For Respondents: Mrs. P. Kavitha Balakrishnan

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.18 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 0.46 hectares i.e., 322.344 cents belonging to the respondents 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.1/1999-2000 in Na.Ka.No.A/2808/97 fixing the compensation payable to the respondents at Rs.400/- per cent and a total compensation of Rs.1,48,274/- was awarded to the respondents for the lands acquired by the Appellant.

3. The Award dated 25.03.1999 passed by the land acquisition officer was challenged by the respondents before the Principal Sub Court, Villupuram in LACMA.No.18 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 and Mrs. P.Kavitha Balakrishnan, learned counsel appearing for the respondents.

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

" a. Whether the Court below erred in not appreciating the fact that the land acquisition officer had placed reliance on Exhibit B.1 the data sale deed since the land conveyed under the said document and the land acquired were similar in nature and classification?

b. Whether the Court below erred in not making any deduction towards the development charges especially when the fixation of market value was placed upon sale deed Exhibit A.3 where under a small extent of land classified as house site had been

conveyed?"

7. 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.

8. 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 Judgement 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.

9. 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.

10. 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, the substantial questions of law formulated by this Court while admitting this second appeal are answered against the Appellant.

11. 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.18 of 2000 is

hereby confirmed. Accordingly, the appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Subordinate Judge,
Villupuram.

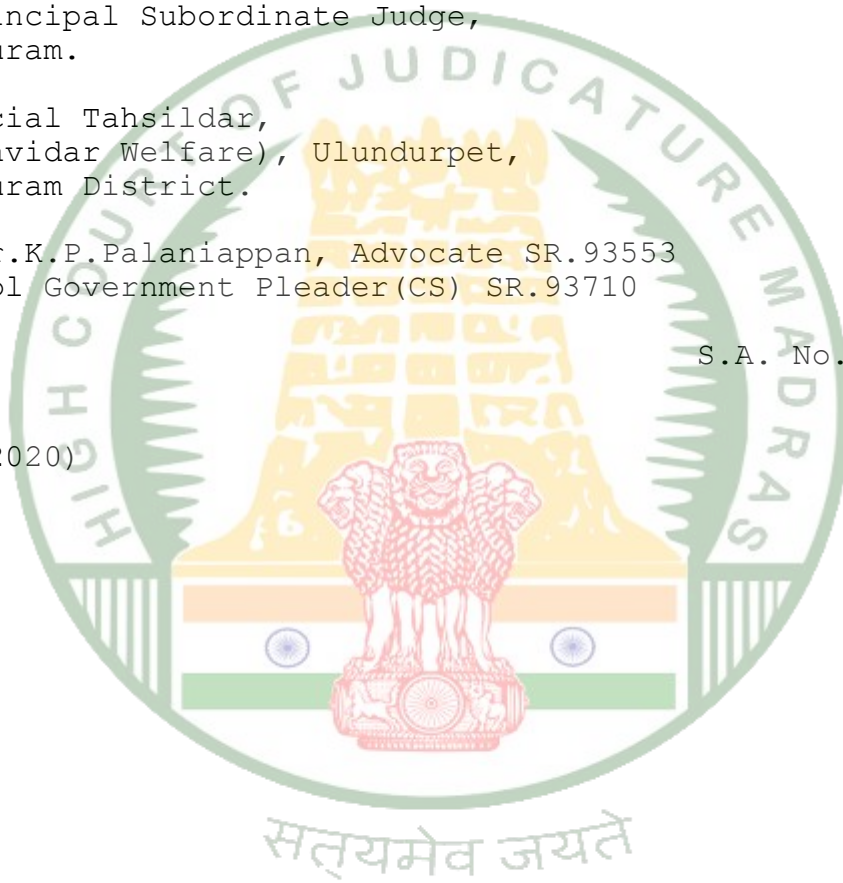
2.The Special Tahsildar,
(Adi dravidar Welfare), Ulundurpet,
Villupuram District.

+1cc to Mr.K.P.Palaniappan, Advocate SR.93553

+1cc to Spl Government Pleader(CS) SR.93710

S.A. No.892 of 2010

SVI(CO)
CB(03/03/2020)



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