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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A.No.638 of 2005

The Special Tahsildar,
Adi Dravidar Welfare,
Sathiyamangalam.

...Appellant/Respondent/Land Acquisition Officer

Vs

1.K.M.Vasudevan,
S/o.Masayappa Gounder,
Kalamegam Veethi,
Gobichettipalayam Town & Taluk.

..1st Respondent/Appellant/Claimant

2.The District Collector
Erode District.

3.The Secretary,
Adi Dravidar Welfare Department,
St. George Fort,
Chennai.

(Respondents 2 and 3 are suo motu impleaded
as per the order of this Court on 23.01.2019)

...Respondents 2 & 3

PRAYER: Second Appeal against the Judgment and Decree made in C.M.A.No.10/2001 dated 12.03.2004 on the file of Principal Sub Court, Gobichettipalayam, modifying the award made in Award No.10/2000-2001 (L.A.No.528/2000/A) dated 27.03.2001 passed by the Special Tahsildar, Adi Dravidar Welfare, Sathiyamangalam.

For Appellant :Mr.A.Dev Narendran
Government Advocate

For Respondents :Mr.P.Valliappan



J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

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2.For the purpose of the case, as well as for the compliance of the orders passed by this Court, this Court suo motu impleads the District Collector, Erode District and the Secretary, Adi Dravidar Welfare Department, Fort St. George, Chennai, as 2nd and 3rd respondents. Mr.Dev Narendran, learned Government Advocate, takes notice on behalf of the newly impleaded parties.

3.The property to an extent of 7.32 Acres in S.F.No.207/2 situated at Thadapalli Village, Gobichettipalayam Taluk, Erode District was acquired for the purpose of providing house sites for Adi Dravidars under the Tamil Nadu Acquisition of Urban Welfare Schemes Act, 1978. 4(1) Notification was issued on 02.02.2001 and award was passed on 27.03.2001. The Special Tahsildar determined the value of the land at Rs.30,000/- per acre, based on the sale details relating to the neighbouring properties. Against the said fixation of value at Rs.30,000/- per acre, the respondent filed an appeal before the Principal Sub Judge, Gobichettipalayam, wherein he relied upon Ex.P.3 and Ex.P.4, which related to the properties comprised in S.F.No.14/1 and 314/2, 3 and determined the value of the land at Rs.4,00,000/- per acre. Such determination is being challenged before this Court by the Government in this present appeal.

4.This Second Appeal has been admitted on the following substantial questions of law:

"1.Whether the court below had erred in not appreciating the provision of Section 8 of the Act 31/1978 wherein it is made clear that in the fixation of determining the amount of compensation the purpose for which the land acquired shall not be a criteria and nature of land on the date of 4(1) notification shall be a criteria for determining the compensation?

2.Whether the court below had erred in not appreciating the fact that the appeal not having been properly stamped under Section 51 of the Tamil Nadu Court fee and Suit Valuation Act 1955 was not maintainable?



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3. Whether the court below had erred in placing reliance on document dated 09.05.2000 to which the claimant is a party as the vendor and the nature of land sold is a house site?

4. Whether the court below had erred in not deducting 1/3rd amount of the market value towards developmental charges as held by the Apex Court reported in 1990 SC 1028?"

5. Heard, Mr.A.Dev Narendran, learned Government Advocate appearing for the appellant and Mr.P.Valliappan, learned counsel appearing for the respondent.

6. Mr.A.Dev Narendran, learned Government Advocate would submit that Ex.R8 contains the details of the sale prior to one year of the Notification. From the sale deeds produced, the Land Acquisition Officer rightly relied upon the data sale deed dated 26.06.2000 and rightly determined Rs.30,000/- per acre and therefore, he seeks to reduce the amount.

7. On the other hand, Mr.P.Valliappan, learned counsel appearing for the respondent would submit that the acquisition was of the year 2000 and 4(1) notification was issued on 02.02.2001. The award was passed on 27.03.2001 and that award was challenged before the Sub Court, Gobichettipalayam in the year 2001.

8. A perusal of the records would reveal that the property comprised in 207/2 to an extent of 7.32 acres has been acquired for the purpose of providing free house sites to Adi Dravidars. Even after 17 years, if the party is unable to enjoy the fruits of the decree, it will only go to show that the officials have not given enough attention either to file an appeal against the fixation order passed by the Sub Court, Gobichettipalayam or to comply with the order. The Sub Tahsildar relied upon the data sale deed/Ex.R6, dated 26.06.2000, which relates to S.F.No.205/1B and another document No.1749 dated 14.06.2000, which conveyed property in S.F.No.314/2 and 3 for a sum of Rs.5,55,555/- per acre. As the document dated 14.06.2000, conveyed property in S.F.No.314/2 and 3 for a sum of Rs.5,55,555/-, there is no occasion for the Tahsildar to determine the land value at Rs.30,000/- per acre. The property which was conveyed under Ex.P.4, is located very near to the acquired land in S.F.No.207/2 at Thadapalli Village. The very purpose of acquisition is for providing house sites to the landless poor people. That would only go to show that the property has the potential to be converted into house sites and in that event, it could cost much more amount as admitted by



RW1/officer. The distance between the acquired land and Gobi and Sathy main road is 500 meters only. It is also stated by PW1 that Thadapalli channel, telephone exchange, temples, residential house sites, saw mills, shops, rice mills, schools and Gandhi nagar colony are very close to the acquired land. RW1 himself admitted that acquired land is one furlong distance, within the radius of 1 km from Gobi Sathy main road and it is near to Gandhi Nagar colony. Ex.P.8 document conveying the property located in S.F.No.205/1B relied upon by the Tahsildar has been rightly rejected by the Civil Court, since it is a rain fed land. Moreover, the said transaction is a benami sale based on which the land value cannot be fixed. Further, based on that, the trial Court has given a finding that Ex.P.8 is not a genuine document and therefore, rightly rejected the same. Even though Ex.P.3 and Ex.P.4 reflect the value of Rs.5,55,555/-, as per sale deeds dated 22.11.1999 and 12.06.2000, the trial Court only fixed Rs.4,00,000/- as compensation for the acquired land.

9.The value fixed by the civil Court is confirmed for the following reasons:

1. The acquisition of the property is only for providing house sites to the Adi Dravidars and it is located very near to Gandhi Nagar, surrounded by Temples, Schools, Electricity Board, Telephone Exchange.
2. It is 500 meters away from Gobi and Sathy main road.
3. RW1 himself accepted that schools and Gandhi Nagar Colony are located very near to the acquired land.
4. Ex.P8, which has been relied upon by the Tahsildar was rightly rejected by the civil Court, as the Property is a rain fed land and is not a genuine document.
5. Ex.P.3 and Ex.P.4, dated 22.11.1999 and 21.06.2000 respectively would prove that the properties located in S.F.No.231, which are also located very near to the acquired land in S.F.No.207/2 were sold for a sum of Rs.5,50,000/- on 12.06.2000, whereas 4(1) notification was issued after eight months of the above sale deeds on 02.02.2001. Therefore, the value relied upon by the civil Court as per Ex.P.3 and Ex.P.4 cannot be disturbed and the value fixed is very reasonable.
6. Even though Exs.P.3 and P.4 would reflect the value of the land at Rs.5,50,000/- only Rs.4,00,000/- has been fixed by the civil Court and therefore, there is no occasion for this Court to interfere with the Decree and Judgment passed by the civil Court. The solatium at the rate of 15% and interest 6% per annum for the amount from 03.04.2000 till the date of taking possession is also payable as rightly granted by the civil Court.



Therefore, the first substantial question of law is answered against the appellant.

10.As far as the second question of law is concerned, since the first respondent is claiming more compensation, Court fee has to be paid as per Section 51 of the Tamil Nadu Court fee and Suit Valuation Act, 1955 and therefore, the finding given by the trial Court is liable to be reversed. Hence, the second substantial question of law is answered in favour of the appellant. Therefore, Court Fee as per Section 51 of the Tamil Nadu Court fee and Suit Valuation Act, 1955 has to be calculated and the amount has to be deducted from the compensation amount awarded to the first respondent.

11.The Sub Court, Gobichettipalayam has not relied upon the sale deed dated 09.05.2000 and therefore, the third substantial question of law does not arise.

12.Accordingly, the Second Appeal is disposed of. No costs.

13.Since the acquisition is of the year 02.02.2001 and the award was passed in 27.03.2001 and even after more than 17 years the appellant has not paid the money, the appellants are therefore directed to deposit the compensation amount along with interest and costs as per the order of the Sub Court, Gobichettipalayam, within a period of twelve weeks from the date of receipt of a copy of this order.

Sai 23.01.2019

For Being Mentioned

This matter having been listed on Wednesday, the 18th day of August 2021 under the caption " For Being Spoken to" in pursuant to the order of this Court dated 23.01.2019 made herein in the presence of the above said advocate, the Court made the following order:

[Order of the Court was made by N.KIRUBAKARAN, J]

This matter has been listed under the caption ' For Being spoken to'

2. When admitting the Appeal, this Court has framed four substantial questions of law. Since the 4th substantial question of law is unnecessary, this Court has not taken up the same,



while disposing the issue. The Judgment passed by this Court in the above Appeal has been clarified in the above manner. Therefore, no further order is necessary.

3. Registry is directed to issue a copy of the order dated 23.01.2019 to the concerned parties.

s/d-
Assistant Registrar(CS-IX)

//True Copy//

Sub-Assistant Registrar

sai
To

1. The Principal Subordinate Judge
Gobichettipalayam
- 2.The Special Tahsildar,
Adi Dravidar Welfare,
Sathyamangalam.

Copy to
The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.P.Valliappan, Advocate sr 41792.

S.A.No.638 of 2005

NRL (CO)
SP(06/12/2021)