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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice C.SARAVANAN

S.A.No.524 of 2018
and
CMP No.14492 of 2018

The Special Tahsildar
(Land Acquisition),
Adi Dravidar Welfare,
Collectorate Building,
Coimbatore.

..

Appellant/Referring Officer

Vs

Ramesh Chandra Garg

.. Respondent/Claimant

Appeal preferred under Section 13 of Tamil Nadu Acquisition of Land for ADW Schemes Act 31/78 r/w Section 100 of C.P.C. against the judgment and decree dated 04.01.2012 made in L.A.O.P.C.M.A. No.155 of 2005 on the file of the I Additional Subordinate Judge, Coimbatore, modifying the Award No.7/2000-2001 Ref.No.628/2000A dated 29.01.2001 on the file of the Special Tahsildar/Land Acquisition Officer (Adi Dravidar Welfare), Coimbatore.

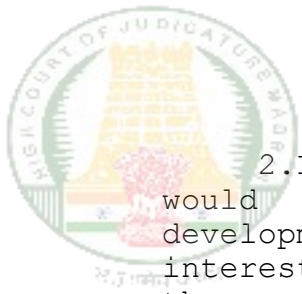
For Appellant .. Mr.A.Deva Narendhiran
Government Advocate

For Respondent .. Ms.V.S.Usha Rani

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal is preferred against the judgment and decree passed by the Reference Court in L.A.O.P.C.M.A. No.155 of 2005 dated 04.01.2012 by which a compensation of Rs.2,50,000/- per acre was granted with interest at 12% per annum from the date of 4(1) Notification to the date of taking possession and thereafter 9% interest for one year from the date of possession of the property and after that 15% till the date of realisation.



2.Learned Government Advocate appearing for the appellant would contend that there is no deduction made towards development charges. The Reference Court has awarded higher interest by placing reliance upon the Land Acquisition Act when the acquisition itself has been made under the State Act viz., Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978.

3.Learned counsel appearing for the respondent would submit that the acquired land and the data land are both agricultural lands. A factual finding has been given with respect to the location of the land covering the data sale deed as well as acquired land. Thus no interference is required.

4.Coming to the first issue with respect to the data sale deed relied upon, we do not find any error. The Reference Court has given a factual finding that the data sale deed relied upon by the respondent/claimant is nearer to the acquired land. Secondly, the character of the lands involved both in data sale deed relied on by the respondent/claimant and the acquired land is one and the same and both are agricultural lands and therefore there is no question of making any deduction for development charges. After all, the Reference Court is bound to take into consideration the higher value by sitting in the arm chair of the intending seller. A factual finding has also been given that the data sale deed relied upon by the authorities is situated far away from the acquired land. In such view of the matter, we do not find any error in the valuation arrived at leading to compensation.

5.However, we find considerable force in the submissions made by the learned Government Advocate with respect to the interest awarded. The Reference Court has adopted the provision governing the Land Acquisition Act, which is a Central Act. The acquisition is made under the State Act. In such view of the matter, what is applicable is Section 12, which speaks about the payment of interest. If that provision is taken into consideration, the claimant is entitled for 6% interest from the date of Notification.

6.In such view of the matter, interest awarded in Clause 3 of the judgment and decree is modified to 6% from the date of Notification. The award was passed nearly two decades ago. The claimant is yet to see the fruits of the award, though dispossession has taken place already. Therefore, we direct the appellant to deposit the remaining amount other than the amount already deposited to the credit of L.A.O.P.C.M.A. No.155 of 2005 on the file of the I Additional Subordinate Judge, Coimbatore, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the respondent/claimant is



permitted to withdraw the amount by filing appropriate application.

7.The second appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Tahsildar/Land Acquisition Officer,
(Adi Dravidar Welfare), Coimbatore.

2.The I Additional Subordinate Judge,
Coimbatore.

+lcc to Mr.V.S.Usharani, Advocate, S.R.No. 35999

+lcc to the Special Government Pleader(C.S), S.R.No. 35970

S.A.No.524 of 2018

EV(CO)
GN(29/08/2019)