

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

A.S.No.590 of 2019

The Special Tahsildar,
Adi Dravida Welfare, Ponneri.

... Appellant

Vs.

1. Sriraman
2. Dayalan
3. Dharani
4. Bhagavathi
5. Secretary,

Saidapettai Co-op. Land Development Bank,
Saidapet, Chennai-600 015.

... Respondents

Appeal Suit (First Appeal) under Section 54 of the Land Acquisition Act against the fair and decretal order dated 14.11.2017 in L.A.O.P.No.69 of 1999 on the file of the Subordinate Court, Ponneri.

For appellant : Mr.J.Balagopal, Spl.G.P.
For respondent : Mr.V.Chandrakanthan

JUDGMENT

(The Judgment of the Court was delivered by R.Subbiah, J)

This Appeal is preferred by the Special Tahsildar, Adi Dravida Welfare, Ponneri as against the enhancement of compensation amount from Rs.300/- per cent fixed by the Land Acquisition Officer to Rs.7,000/- per cent fixed by the Reference Court (Subordinate Court), Ponneri in L.A.O.P.No.69 of 1999, by order dated 14.11.2017.

2. The Land Acquisition Officer (LAO) issued Notification under Section 4(1) of the Land Acquisition Act in the locality on 27.03.1991 to acquire lands measuring an extent of 5 hectares or 12.35 acres in Kosappur Village, Tiruvallur District, for the purpose of providing plots to Adi Dravidars under Adi Dravidar Welfare Scheme. The land(s) sought to be acquired includes land owned by the claimant(s). The LAO had collected 75 sale transactions for the period from 27.03.1988 to 26.03.1991 and taken data sale for fixing market value for the acquired land (s). The LAO relied upon a sale of 31 cents of dry land in S.No.181/2 sold for Rs.9,300/-, registered as Document No.2630/90, dated 06.06.1990 and fixed Rs.300/- per cent. Thus, LAO had passed an Award in No.1/93-94, dated 03.10.1993, fixing market value at Rs.300/- per cent based on the said document. Aggrieved by the amount fixed in the Award by the LAO, as land owner(s)/claimant(s) had raised objection, a reference was made by LAO before Reference Court (Subordinate Court), Ponneri, under Section 18 of the Land Acquisition Act, seeking enhanced compensation in respect of the land(s) acquired. In the said reference pertaining to the claimant(s)/land owner(s), numbered as L.A.O.P.No.69 of 1999, the Reference Court relied upon a document which was marked as Ex.C-3 (Document No.837 of 1989), dated 22.02.1989, relating to sale of unapproved house-sites measuring an extent of 600 Sq.Ft. sold for Rs.10,500/- and the land was valued at Rs.10,000/- and the hut on the land was valued at Rs.500/-. On the basis of the sale of 600 Sq.Ft. of land at Rs.10,000/-, one cent is worked out to Rs.7,264/-. Thus, the Reference Court relied on the said document for fixing the market value at Rs.7,264/- per cent with deduction of 25% on the said value, but however, the order for fixing the compensation was made at Rs.7,000/- per cent, instead of Rs.5,448/- (i.e. 1 cent = 7,264 x 25% = 1816; 7264-1816 = 5448). Thus, the learned Subordinate Judge erroneously fixed the compensation amount on wrong calculation. Thus, it is the submission of the learned Special Government Pleader appearing for the petitioner that the Court, while making calculation, had committed calculation error, which had resulted in fixing compensation at Rs.7,000/- per cent. Thus, the learned Special Government Pleader prayed for proper deduction of the compensation amount awarded by the LAOP Court.

3. We have also heard the submissions made by the learned counsel appearing for the claimant(s)/land owner(s) and perused the materials available on record.

4. We find that as against the Award passed by the LAO, the issue was referred by the LAO to the Reference Court (Subordinate Court, Ponneri). The land owner(s)/claimant(s) have not filed any appeal. As pointed out by the learned Special Government Pleader, the Court below, while arriving at the compensation, had committed calculation error as discussed above. Thus, the actual calculation of compensation should be as follows:

$$1 \text{ cent} = 7,264 \times 25\% = 1816; \quad 7264 - 1816 = 5448.$$

5. Accordingly, the compensation is fixed at Rs.5,448/- per cent by reducing the amount Awarded by the Reference Court on calculation error. In other respects, the impugned order passed by the Reference Court shall remain unaltered. Accordingly, the First Appeal (Appeal Suit) is allowed to the extent indicated above. The above Award amount of Rs.5,448/- per cent, after making necessary calculation of interest, solatium, additional market value, etc., and other statutory benefits, as awarded by the Reference Court, as indicated in the impugned order/decreed passed by the Reference Court, shall be deposited before the Reference Court, by the appellant/LAO concerned within a period of 12 weeks from the date of receipt of a copy of this judgment, after deducting the sum, if any already deposited before the Reference Court. There shall be no order as to costs so far as the present Appeal Suit is concerned.

Sd/-

Asst.Registrar (CS IV)

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Sub Asst. Registrar

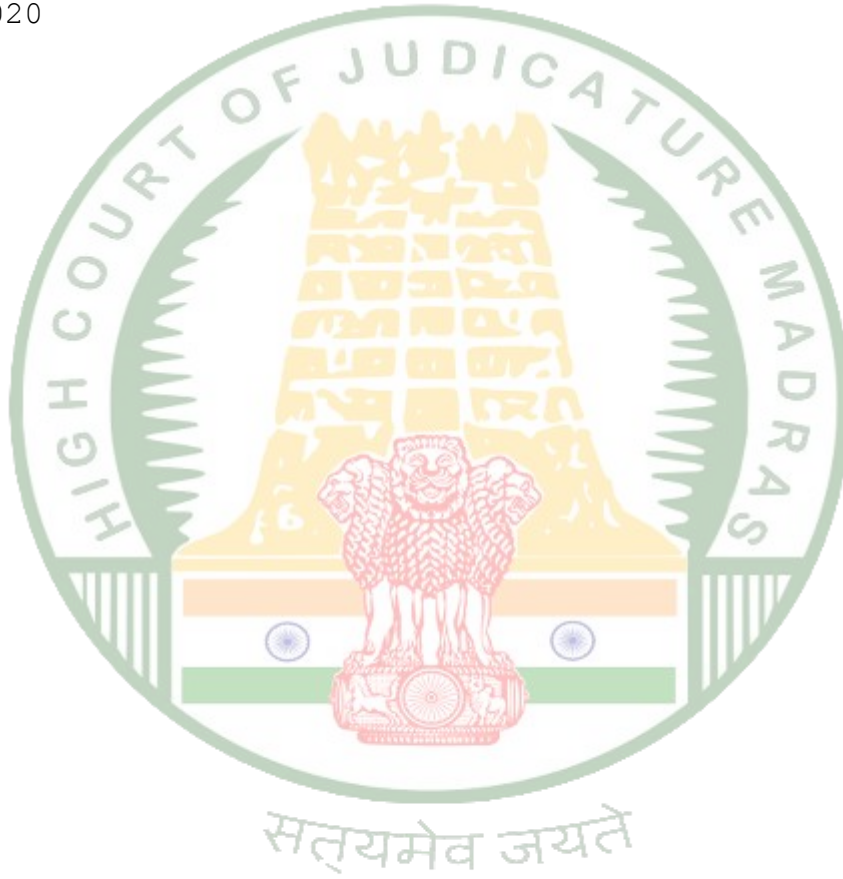
CS
To

1. The Subordinate Judge, Ponneri.
2. The Special Tahsildar, Adi Dravida Welfare, Ponneri.
3. Secretary,
Saidapettai Co-op. Land Development Bank,
Saidapet, Chennai-600 015.

4. The Section Officer, V.R. Section, High Court, Madras.

A.S.No.590 of 2019

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