

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2019

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

S.A. No. 2229 of 2004

Special Tahsildar
Adidraavidar Welfare
Sathiyamangalam.

... Land Acquisition Officer/
Respondent/Appellant

Vs.

1.Muthayammal
W/o.Late Chellappa Gounder
2.A.S.Perumalsamy Gounder @ Perumalsamy
S/o.Late Chellappa Gounder
3.A.S.Palanisamy
S/o.Late Chellappa Gounder

All are residing at Kadukam Palayam
Alangattu Pudur
Gobichettipalayam Taluk.

... Claimants / Respondents

Prayer : Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Adi Dravidar Welfare schemes Act 31/78 read with Section 100 of CPC, against the judgment and decree dated 30.04.2004 made in C.M.A. No.19 of 1998 on the file of Principle Subordinate Judge, Gobichettipalayam modifying the award made in Award No.2/98-99 (Na.Ka.No.96/96) dated 18.09.98 passed by the Special Tashildar, Adi Dravidar Welfare, Sathiyamangalam.

For Appellant : Mr.A.Devnarendran
Government Advocate

For Respondents: Mr.P.Thangavel [For R3]
No appearance [For R1&R2]

J U D G M E N T

The State is the appellant in the Second Appeal. The appeal is directed against the enhanced compensation awarded to the Respondents-land owners, pursuant to the appeal preferred before the Sub-Court, Gobichettipalayam, aggrieved by the inadequate

compensation amount awarded by the State in Award No.2/98-99 dated 18.09.1998. The land owned by the Respondents herein was sought to be acquired under the Tamil Nadu Adi Dravidar Welfare Land Acquisition Act and it was duly notified in the Gazette on 11.03.1997. After affording opportunity to the land owners an award was passed on 18.09.1998 fixing a sum of Rs.86,000/- per acre in respect of survey No.145/1 in Kadukkampalayam Village, Gobichettipalayam acquired from the respondents. The data value of the land situated in Survey No.235/1, wherein 50 cents (0.50 acres) of land sold on 11.09.1996 for a sum of Rs.45,000/- has been taken for fixing the value of the land acquired. Hence, the land owners have preferred appeal in C.M.A. No. 19 of 1998 pointing out that the acquisition authority ought to have fixed higher compensation for the land acquired. He relied upon the sale deed (Ex.A-2) executed by Nanjappan and others to Vasantha on 16.04.1997, wherein 8082 square feet of lands were sold for Rs.17,000/-, which is @ Rs.5.51 per square feet and based on the data provided by the Respondents-land owners the lower Appellate Court has fixed Rs.2,400/- per cent as value of the land acquired. Aggrieved by the enhanced compensation the present second appeal is preferred raising the following substantial questions of law:-

- (1) Whether the Court below had erred in not appreciating the provision of Sec. 8 of the Act 31/78 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 Suits Valuation Act, 1955 was not maintainable ? and
- (3) Whether the court below had erred in placing reliance on document to which the claimant is a party as the vendor and the nature of land sold is a house site ?

2.The learned counsel appearing for the appellant submitted that it is a well settled proposition of law when a large extent of land is acquired for the public purpose sale deed of a small extent of land should not be taken as a data document, whereas, the Lower Appellate Court has erred in considering Ex.A2 for fixing enhanced compensation @ Rs.2,400/- per cent.

3. Per contra, the learned counsel appearing for the respondents submitted that in an identical facts of case this Court has consistently held that the data document for a smaller extent of land cannot be outrightly rejected when there is no

other comparable document available to assess the marketable value of the property and if the data document though of a smaller extent if reliable, the value shown in the said document cannot be ignored. The learned counsel also circulated some of the judgments rendered by this Court in this regard, wherein, the enhanced award passed by the Lower Court left undisturbed by this Court taking into consideration the astronomical escalation of price pending litigation.

4. In the light of the above fact, this Court also not inclined to interfere with the findings of the lower Appellate Court except to point out that the respondents herein are liable to pay the difference of court fee under Section 51 of the Tamil Nadu Court Fees and Suits Valuation Act. On payment of difference of court fee before the Sub Court, the decree shall be drafted. The appellant is directed to pay the difference in the compensation amount payable to the respondents within a period of 12 weeks from the date of receipt of a copy of this order. The second appeal stands dismissed, accordingly. No costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

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

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.6172
+1cc to the Special Government Pleader, S.R.No.6223.

S.A. No. 2229 of 2004

Cnr (CO)
Kak (23/03/2019)