



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.03.2019
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

S.A(MD)No.399 of 2018
and
C.M.P(MD)No.11294 of 2018

The Special Tahsildar (LA),
Adi Dravidar Welfare,
Periyakulam

.. Appellant/Land Acquisition Officer

Vs.

- 1.Periyavairavan Chettiar (died)
- 2.Kamatchi Ammal
- 3.Periyakamatchi
- 4.Chinnakamatchi
- 5.Velammal
- 6.Kuppammal
- 7.Paiyammal

[Respondents 2 to 7 are impleaded as
legal representatives of the deceased
sole respondent vide order dated
31.10.2018 made in C.M.P(MD)Nos.
3565 to 3567 of 2016]

.. Respondents/Claimants

PRAYER: Second Appeal is filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978,[Act 31/78] read with Section 100 of the Code of Civil Procedure, 1908, against the Judgment and decree dated 13.06.2005 passed in C.M.A.No.7 of 2003 by the Sub Court, Periyakulam, modifying award dated 21.03.1997 passed in Award No.7/96-97 by the Special Tahsildar (LA), Adi Dravidar Welfare, Periyakulam.

For Appellant : Mr.J.Gunaseelan Muthiah,
Addl. Govt. Pleader.

For Respondents : Mr.P.Muthuvijayapandian

JUDGMENT

The Judgment and decree, dated 13.06.2005, passed in C.M.A.No.7 of 2003 by the Sub Court, Periyakulam are under challenge in the present Second Appeal.



2. The appellant herein as Referring Officer has acquired the lands of the respondents comprised in Survey Nos. 1421/2A and 1422 of Andipatty Village, Andipatty Taluk, measuring 1.00.00 hectare for the purpose of converting the same into house-sites and to give the same to the houseless Adi-Dravidar families residing in Mekkilarpatty Village, Andipatty Taluk and awarded Rs.350/- per cent and Rs.100/- per coconut tree along with solatium, as compensation. Aggrieved by the award passed by the Referring Officer, C.M.A.No.7 of 2003 has been filed by the first respondent / original claimant on the file of the Sub Court, Periyakulam. The Sub Court, Periyakulam after considering the oral and documentary evidences, has awarded Rs.1,500/- per cent, along with interest at the rate of 12% p.a. from the date of 4(1) notification till the date of deposit and also awarded 30% solatium. However, the Court below confirmed the award passed by the first respondent in respect of coconut trees. Against the quantum awarded by the Sub Court, Periyakulam, the present second appeal has been filed by the Land Acquisition Officer.

3. This second appeal is listed today for admission. Though the appellant / Land Acquisition Officer filed this second appeal raising various grounds, learned counsel for the appellant / Land Acquisition Officer restricted his arguments only with regard to development charges. According to the learned Additional Government Pleader, the land acquired is a dry land and some development has to be made for plotting the same as house sites, but the Court below has failed to deduct any sum towards development charges. By relying upon an unreported decision of this Court, dated 25.04.2018, made in A.S(MD)Nos.217, 218 and 252 of 2001, he would submit that in the said case, this Court ordered 15% deduction towards development charges and the same may be followed in this case also.

4. The learned counsel appearing for the respondents would submit that the acquired land is situated in a developed area and therefore, deduction is not necessary. He would further submit that though the land in Ex.A2 was sold for Rs.3500/- per cent, the Court below has fixed only Rs.1,500/- per cent. Therefore, no amount may be deducted towards development charges.

5. Heard the learned counsel appearing on either side and perused the materials available on record carefully.

6. It is an admitted fact that the lands of the respondents mentioned in the award have been acquired for the purpose of giving the same to house-less Adi-Dravidar families after due conversion into house-sites. The lands in question are nothing but
<https://hccservices.courts.gov.in/hccservices> Referring Officer has awarded Rs.350/- per cent as compensation. The Sub Court, Periyakulam has awarded Rs.1,500/- per cent as compensation with interest at the rate of 12% from the



date of 4(1) notification till the date of deposit and also awarded 30% solatium.

7. On the side of the respondents, a sale deed, dated 28.02.1994 has been marked as Ex.A.2, by which, the land, to an extent of 20½ cents, has been sold to the tune of Rs.75,500/- ie., Rs.3,500/- per cent. The Court below has held that the land mentioned in Ex.A2 is situated on the road and therefore, the value of the land would be more and it has been sold at Rs.3,500/- per cent. Considering the location of the land and considering the fact that the lands in question is situated nearer to the land mentioned in Ex.A2, the Court below has awarded Rs.1,500/- per cent, without deducting any sum towards development charges.

8. Though the learned counsel appearing for the respondents submitted that as the lands acquired are in developed area, deduction is not necessary, he has not substantiated the same by producing any document. Considering the fact that the lands in question are nothing but dry lands and also considering fact that the same have been acquired only for the purpose of converting into house-sites, necessary deduction should be made towards development charges. But, the Court below has failed to do so. Under the said circumstances, this Court is of the view that it would be proper to deduct 15% towards development charges.

9. It has already been pointed out that the Court below has awarded Rs.1,500/- per cent. As stated earlier, if 15% is deducted from Rs.1,500/-, it comes to Rs.1,275/- per cent ($1,500 - 225 = 1275$). Thus, the respondents 2 to 7/claimants are entitled to get Rs.1,275/- per cent as compensation. Except the above modification, the judgment and decree passed by the Sub Court, Periyakulam are confirmed in all other respects.

10. In the result, this second appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Sub Judge,Periyakulam.

2.The Special Tahsildar (LA),
Adi Dravidar Welfare,
Periyakulam

Copy to : The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1cc to Mr.P.Muthu Vijaya Pandian,Advocate, SR.No.57084

+1cc to the Spl.Govt.Pleader Sr.No.57775

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JUDGMENT MADE IN
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and
C.M.P (MD)No.11294 of 2018
27.03.2019

NA (25.07.2019) 4P :7C