

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.2104 of 2010

and

MP.No.1 of 2010

The Special Tahsildar
Adi Dravidar Welfare Department
Tindivanam.

... Petitioner

Versus

Vasantha

... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the Judgment and decree made in CMA.No.1 of 2000, dated 29.09.2006 on the file of the Principal Sub-Court, Tindivanam modifying the award made in Award No.15 of 1998-1999, dated 25.02.1999 passed by the Special Tahsildar cum Land Acquisition Officer, Adi Dravidar Welfare, Tindivanam.

For petitioner : Mr.S.Jaganathan,
Government Advocate (C.S)

For Respondent : No Appearance

WEB ORDER

Notice served to the respondent, but none entered appearance.

2.The learned Government Advocate appearing for the revision petitioner submitted that land acquisition proceedings were initiated by the Special Tahsildar, Adi Dravidar Welfare Department, for providing free house

site patta to 62 families. Accordingly, the lands to the extent of 1.32.0 hectare are equivalent to 3.26 acres in various survey numbers viz., S.Nos.201/6, 201/7, 201/8 and 203/1 were proposed to be acquired. The respondent herein is one of the land owners and the lands of other person were also acquired and a sum of Rs.4,55,399/- was also awarded as compensation in vide Award No.16/98-1999 dated 25.02.1999. Challenging the said award dated 25.02.1999, the respondent herein has filed CMA.No.1 of 2000 before the learned Subordinate Judge, Tindivanam seeking to direct the Land Acquisition Officer to pay compensation for the well and standing trees thereof.

3.In the said proceedings, she has stated that she is the owner of the land to the extent of 2 acre 87 cents, in which, land measuring to the extent of 2 acre 68 cents only were acquired by the Government. In the acquired land, there was a well and standing trees thereon. According to the appellant/respondent herein, by reason of acquisition of 2 acre 68 cents of land, the remaining 19 cent of land has become useless, but the Government has paid the compensation to the lands acquired by them. At the same time, they have not calculated the value of the Well in the lands. The Land Acquisition Officer also did not consider the value of the Well along with the lands. Hence, she sought the compensation amount for the well and standing trees. She has also stated that the compensation amount awarded is meager, thus, she sought for enhancement of compensation.

4.The claimant has examined herself as CW.1 and one Bakthavachalam was examined as CW.2. On behalf of the Government/respondent side, Tmt.Birundha Janarthanan, the Special Tahisldar was examined as RW.1 before the Principal Sub-Court, Tindivanam.

5.On considering the oral and documentary evidence, the learned Subordinate Judge has come to the conclusion that the compensation awarded by the Land Acquisition Officer is based upon the comparable sale deeds in the nearest lands and hence, the compensation is just and reasonable, however, held that without well the balance of land become useless and it cannot be used by the petitioner, therefore, she is entitled for the compensation amount for the land, which was not acquired by the Government including the Well. In respect of other lands of 19 cents, the Court below has awarded a sum of Rs.23,085/- along with 12% interest, which has to be paid by the Special Tahsildar.

6.The learned Government Advocate for the petitioner has submitted the the compensation awarded before Sub-Court, Tindivanam, in respect of the balance lands, which were not acquired from the claimant, is incorrect. Even though the Court below held that the value fixed by the Land Acquisition Officer is correct, the Court below exceeded it's jurisdiction, while awarding the compensation for the balance of the land that are not all acquired by the Government. While so, the Government is not liable to pay

compensation for the balance land. Further, the Court below proceeded beyond the scope of the prayer sought for by the claimant in fixing the compensation for the balance land measuring 19 cents also. When the appeal was filed for fixing compensation for the well and standing trees, the Court below ought not to have fixed compensation of Rs.23,085/- for the balance un-acquired lands and therefore, he prayed for allowing this revision petition.

7.After perusing the award passed in the land acquisition proceedings, the Court below has awarded a sum of Rs.23,085/- as compensation for 19 cents of land which was not acquired by the Government. Furthermore, the Civil Miscellaneous Appeal has been filed for enhancement of compensation, in respect of the land acquired and for the well and standing trees thereof. Furthermore the reasons assigned by the Court below is that there was 19 cents land left un-acquired has become useless and therefore, the compensation has to be paid is beyond the scope of the appeal. Furthermore, for fixing compensation for the balance 19 cents of land, there is no documentary evidence on record.

8.In view of the matter, the order passed by the learned Sub-Judge, Tindivanam, in CMA.No.1 of 2000 is appears to be erroneous and accordingly, the same is set aside. In other words, the compensation fixed by the Sub-Court, Tindivanam in CMA.No.1 of 2000 in respect of the un-acquired land measuring to the extent of 19 cents alone is set aside. The

compensation fixed by the Land Acquisition Officer, in respect of the land measuring 2 acre 68 in the award dated 25.02.1999 is hereby confirmed. The Civil Revision Petition is partly allowed to the limited extent as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

29.01.2020

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order

klt

To

- 1.The Principal Sub-Court, Tindivanam.
- 2.The Special Tahsildar cum Land Acquisition Officer,
Adi Dravidar Welfare, Tindivanam.



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