IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.301 of 2017

The Land Acquisition Officer and
Special Tahsildar,(Adi Dravidar Welfare),
Gudiyatham.

..Appellant

Vs.

V.M.Muneer Ahmed (Died)
V.M.Nazeer Ahmed Sahib(Died)

1.V.M.Palkis Banu
2.V.M.Rueena Dabasim
3.V.M.Irfan Ahamed
4.V.M.Rukeena Dabasim
5.V.M.Muntaj
6.V.M.Shakila
7.V.M.Sulthana
8.V.M.Shabana
9.V.M.Harun Rasheed
10.V.M.Navab
11.V.M.Ubaidullah
12.V.M.Shabina

..Respondents

Prayer : First Appeal filed against the Judgment & Decree dated 31.01.2013 passed in L.A.O.P.No.14 of 2005 on the file of the learned Sub-ordinate Judge, Gudiyatham.

For Petitioner : Mr.J.Balagopal
Special Government Pleader

For Respondents : Mr.T.M.Hariharan

ORDER

The appeal suit is filed against the judgment and decree dated 31.01.2013 passed in L.A.O.P.No.14 of 2005 on the file of the learned Sub-ordinate Judge, Gudiyatham.

2. The Land Acquisition Officer/Special Tahsildar, (Adi Dravidar Welfare), Gudiyatham, is the appellant and the appeal suit is filed challenging the order of trial Court mainly on the

ground that the trial Court has committed an error in enhancing the compensation ex-orbitantly from Rs.1315.79/- per cent to Rs.10,000/- per cent, which is in violation of the provisions of the Land Acquisition Act.

3. The learned Special Government Pleader appearing on behalf of the appellant reiterated that the document relied on by the trial Court Ex.C1, relates to a smaller extent of land. Therefore, reliance placed is improper for granting such ex-orbitantly enhancement. The learned Special Government Pleader is of the opinion that the lands cited by the claimants, with reference to sale deed executed for a smaller extent of land. Therefore, the trial Court ought not to have relied on such document and arrived at a conclusion and granted enhancement.

4. The learned counsel appearing on behalf of the respondents/claimants opposed the contention by stating that the lands were acquired for the purpose of construction of house to Adi-Dravidar Community on that locality and the acquired land is situated adjacent to Melpatti, Pernambut, Gudiyattam Main road and also adjacent to Thalayatham Bazaar. It was Gold Jewelly Bazzar and the land can be converted into housing plots. Even during the relevant point of time, it was situated nearby Bazzar Road. This being the factum, the trial Court has not committed any error in granting enhancement.

5. This Court is of the considered opinion that the right of the property is constitutional right and with reference to acquisition proceedings, the land losers are entitled to get just compensation based on the prevailing market value in that locality. As rightly pointed out by the respondents, the land acquired is for the purpose of developing the house for the welfare of Adi-Dravidar Community and the land acquired is situated adjacent to Melpatti, Pernambut, Gudiyattam Main Road and also adjacent to Thalayatham Bazzar. It was Gold Jewelly Bazzar. Thus, the contention that the acquired land can be converted into housing plot, even during the relevant point of time, is to be accepted. Under these circumstances, the trial Court relied on Ex.C1 document, marked by claimants and accordingly, enhanced the compensation. It is not as if the trial Court has enhanced the compensation on certain presumption. In fact, the trial Court relied on Ex.C1, which is a sale deed dated 12.06.1995 in Document No.2158 and therefore, there is no infirmity or perversity as such. It is further to be noted that the said document marked as Ex.C1 was registered prior to issuance of 4(1) notification and accordingly, the finding of the trial Court is in consonance with the provisions of the Land Acquisition Proceedings. Thus, this Court is not inclined to interfere with the findings of the trial Court. However, the trial Court has not deducted the development

charges, as per the direction of the Supreme Court. Accordingly, the judgment and decree dated 31.01.2013 passed in L.A.O.P.No.14 of 2005, is confirmed in all other respects, however, the appellant is entitled to deduct 33% towards development charges, as per the order of the Supreme Court and the respondents/claimants are entitled for all other statutory benefits, interest etc., in accordance with law.

6. In this view of the matter, the judgment and decree dated 31.01.2013 passed in L.A.O.P.No.14 of 2005 stands modified to the extent that deduction of development charges of 33% alone is to be done and in all other respects, the respondents/claimants are entitled to receive the benefits as per law. The appellant is directed to calculate the compensation amount and settle the same in favour of the respondents within a period of three months from the date of receipt of a copy of this judgment. Consequently, the first appeal stands allowed in part. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssb

To
1. The Subordinate Judge
Gudiyatham.

2. The Section Officer
VR Section
High Court, Madras 104.

+1 Cc to Mr.T.M.Hariharan, Advocate sr 15988.

A.S.No.301 of 2017

NMI(CO)
SP(24/11/2020)