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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

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THE HONOURABLE MS.JUSTICE P.T.ASHA

A.S.NO.887 OF 2010

The Special Tahsildar, (LA),
Five Year Plan,
Cuddalore.

... Appellant

.Vs.

Manoharan

... Respondent

PRAYER:-

Appeal Suit filed under Section 54 of the Land Acquisition Act, against the Judgment and Decree of the learned Subordinate Judge, Cuddalore in L.A.O.P.No.48 of 1989 dated 10.09.1991.

For Appellant : Mr.Edwin Prabhakar,
Government Advocate (CS)

For Respondent : Mr.T.Dhanasekaran

JUDGMENT

The Land Acquisition Officer is before this Court challenging the order passed by the learned Subordinate Judge, Cuddalore, in L.A.O.P.No.48 of 1989, in and by which the learned Subordinate Judge, Cuddalore has enhanced the compensation payable to the respondent/claimant for his lands acquired by the appellant. The facts which preceeds the filing of this appeal is herein below narrated in brief.

2. It is seen that the lands measuring an extent of 1.68 acres consists of both dry and wet lands comprised in R.S.Nos.29/1B and 29/2B of Sellankuppam Village, Cuddalore had been acquired for the improvement of the road from Sellankuppam to Singarathope. Pursuant to the decision to acquire the lands, a notification under Section 4 (1) of the Land Acquisition Act was notified on 16.04.1986. The said notification was published in the newspapers on 08.04.1986 and in the Government Gazette on



05.03.1986 and an enquiry under Section 5 A was conducted on 05.11.1986. Since no objections were received for the acquisition from the interested persons a draft declaration was also published on a daily newspapers on 15.04.1987.

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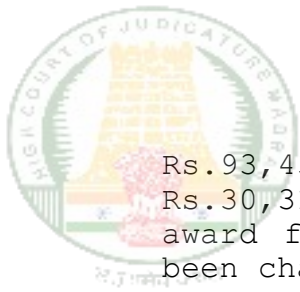
3. Ultimately, an award was passed by the Land Acquisition Officer & Special Tahsildhar (LA), on 30.09.1988 in and by which the value of the lands belonging to the respondent/claimant was fixed at a sum of Rs.63,117.90/- which includes a solatium of 30% and 12% additional amount. Since the amounts were very low, the land owner had submitted his objections and requested the matter be referred under Section 18 of the Land Acquisition Act for determination by the Court.

4. Therefore, the Special Tahsildhar (LA) had forwarded the objections to the Subordinate Court, Cuddalore. The same being taken on file the respondent had filed a claim statement, in which he had contended that the lands that had been acquired were wet lands with good irrigation facilities. The claimant had submitted that he was earning a sum of not less than Rs.15,000/- per year from out of the lands. Therefore, he would state that the lands would fetch a rate of Rs.60,000/- per acre. The claimant had adduced evidence as P.W.1 and one Arumugam as P.W.2 before the Subordinate Court and a sale deed dated 19.08.1985 was marked on their side. The respondent had examined one Abdul Zamid as D.W.1 and no documents had been filed through him.

5. The learned Subordinate Judge, Cuddalore after considering the evidence both oral as well as documentary relied upon Ex.C.1, which related to the sale of 49 ½ cents in S.No.68/1 which had sold for a sum of Rs.34,000/-. If this amount was taken, then the value for one acre of land would be a sum of Rs.69,390/-. The said sale had taken place just year before the 4 (1) notification.

6. The learned Judge has also observed that there is no explanation from the Land Acquisition Officer as to why he had not taken note of this deed. The learned Judge had also observed that the land covered under Ex.C.1 was in the same village and applying the dicta of the Hon'ble Supreme Court that the highest market value has to be given, the learned Judge had fixed the value of the land at Rs.50,000/- per acre. Thereafter, he had included the value of usufructs at Rs.3,870/-.

7. Considering the fact that the land acquired was an extent of 1.36 acres, the value was fixed at Rs.68,000/-. To the above sum, 30% was added towards solatium which worked out to a sum of Rs.21,561/- and totally the value of compensation was a sum of



Rs.93,431/-. From this, the amount already granted, namely, Rs.30,313.10/- was deducted and the learned Judge passed an award for a sum of Rs.63,117.90/-. It is this award that has been challenged by the appellant herein.

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8. Mr.Edwin Prabhakar, learned Government Advocate (CS), appearing on behalf of the appellant would contend that the learned Judge has not deducted any amount towards the development charges and has also granted interest even on solatium. Therefore, the award requires a reconsideration.

9. The lands have been acquired as early as in the year 1986 for the purpose of improving the road. The lands that have been acquired admittedly are wet lands which has irrigation facilities and which was being used for agricultural purposes. The documents produced by the appellant is nearly a year prior to the 4 (1) notification and even at that point of time the market value of the land was Rs.69,390/-. The learned Subordinate Judge has only fixed a sum of Rs.50,000/- as the value per acre. The lands are being acquired for the purpose of forming the road and huge amounts would not have been required towards development. Therefore, the omission to deduct development charges cannot be found fault with especially when the lands had been taken over nearly over 3 decades ago. That apart, the appellant has not produced any documents in the form of sale deed to show that the value arrived at by the learned Subordinate Judge, Cuddalore is excessive.

10. The Judgement passed by the learned Subordinate Judge is very reasonable and I do not find any reason to re-consider the same.

11. In the above circumstances, the First Appeal is dismissed and the Judgement and Decree of the learned Subordinate Judge, Cuddalore is confirmed. No costs.

Sd/-
Assistant Registrar

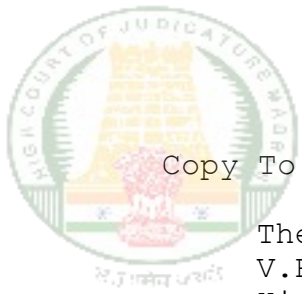
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Sub Assistant Registrar

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To

The Subordinate Judge,
Cuddalore.



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