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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A. No.896 of 2002

The Award Officer,
(Spl. Tahsildar, Harijan Welfare),
Cuddalore. ... Appellant/Respondent/Land Acquisition Officer
Vs

1.Muthuraman
2.Rajaraman
3.Janakiraman ... Respondents/Appellants/Claimants

PRAYER: Second Appeal filed under Section 100 C.P.C. against the Decree and Judgment dated 09.04.2001 made in CMA.No.28 of 1996 on the file of the Sub Judge, Panruti, modifying the award made in Award No.10/95-96 dated 13.03.1996 passed by the Special Tahsildar (ADW) Cuddalore.

For Appellant : Dr.S.Suriya, Government Advocate

For Respondents : Mr.K.Kannan

JUDGMENT

This second appeal has been filed challenging the judgment and decree dated 09.04.2001 passed by the Sub Court, Panruti in land acquisition CMA.No.28 of 1996 whereby the Sub Court, Panruti enhanced the market value of the acquired lands to Rs.88,200/- and also awarded a solatium of Rs.13,220/- and directed the Appellant to pay the respondents/claimants the enhanced amount together with interest at 6% per annum on the balance amount payable by the Appellant i.e., on Rs.80,944/- at 6% per annum from 04.01.1996 being the date of section 4(1) notification under the land Acquisition Act.

2. This Court had admitted this second appeal on 28.06.2002 on the following substantial questions of law:

"1.Whether the courts below are correct in taking into consideration Ex.P1 and P2, P3 and P4 sale deeds which are only a small extent whereas the lands acquired were large extent?

2. Whether the courts below are justified in



awarding the 6% interest when the entire compensation amount has been paid to the respondents before taking possession of the acquired lands?"

3. Dr.S.Suriya, learned Government Advocate for the Appellant would submit that the subject lands acquired by the Appellant from the respondents/claimants are all dry lands and is not a house-site. However, according to her, the learned Sub Judge, under the impugned judgment has erroneously assessed the market value of the property on the ground that the subject property is a house-site. She drew the attention of this Court to the land valuation list pertaining to the lands acquired from various parties which has been attached to the Award dated 13.03.1996 passed by the land acquisition officer and in particular, she drew the attention of this Court to Sl. No. 3 which pertains to the respondents/claimants land and would submit that since there is no house in the property, the subject property is not a house-site and therefore, enhancement of market value by the Sub Court, Panruti under the impugned judgment based on the erroneous assessment that the subject land is the house-site, has to be set aside by this Court.

4. According to her, by total non-application of mind to the classification of the property, the Sub Court has erroneously enhanced the market value of the property. She also drew the attention of this court to Paragraph 10 of the impugned judgment passed by the Sub Court, Panruti which gives the details of the calculation with regard to the assessment made by the learned Sub Judge, Panruti. She would submit that since the Appellant has already deposited the compensation as fixed by the land acquisition officer, the question of payment of interest at 6% per annum as fixed by the learned Sub Court, Panruti under the impugned judgment will not arise. Therefore according to her, the findings of the Tribunal that the Appellant has to pay the interest at 6% per annum is an erroneous finding and has been passed by total non-application of mind.

5. With regard to the first substantial question of law namely whether the courts below are correct in taking into consideration Exs.P1, P2, P3 and P4 sale deeds which are only a small extent, whereas the lands acquired were large extent is concerned, the same has been adequately and correctly considered by the learned Sub Judge, Panruti. Admittedly, Ex.P1, P2, P3 & P4 sale deeds marked as Exhibits on the side of the respondents/claimants are all lands adjoining the lands belonging to the respondents/claimants which have been acquired by the Appellant under the subject acquisition whereas the data sale deed which the learned counsel for the Appellant relies upon was not even marked as exhibit before the Tribunal.

6. The submission that the sale deed which were marked as



exhibits on the side of the respondents /claimants is only of a small extent and there will be vast difference in the market value for the lands acquired which are all large extents is concerned, there is no evidence whatsoever available on record before the courts below in support of the said submission. Therefore, this Court is of the considered view that there is no merit in the first substantial question of law formulated by this Court.

7. With regard to the second substantial question of law namely whether the courts below are justified in awarding 6% interest when the entire compensation amount has been paid to the respondents before taking possession of the acquired lands is concerned, the said substantial question of law also does not deserve any merit in view of the fact that the Appellant has paid only the compensation amount fixed by the land acquisition officer and has not paid the enhanced compensation as fixed by the learned Sub Judge, Panruti under the impugned Judgment. The respondents/claimants are certainly entitled for interest for the balance amount also. The learned Sub Judge, Panruti under the impugned Judgment has granted interest only for the balance amount from the date of claim till the date of realisation. There is no infirmity in the said finding of the learned Sub Judge, Panruti under the impugned Judgment. Only in accordance with the settled practice and only based on the evidence available on record, the lower appellate court has granted the interest at 6% per annum. Hence, the second substantial question of law referred to supra is also answered against the Appellant.

8. For the foregoing reasons, there is no merit in this second appeal. The impugned judgment and decree dated 09.04.2001 passed in CMA.No.28 of 1996 is hereby confirmed and this Second Appeal is dismissed. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Sub Judge, Panruti

2. The Special Tahsildar (ADW) Cuddalore.



Copy To

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

+1cc to Government Pleader SR.No.36072

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GJ(CO)
GMY(08/11/2021)