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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

S.A.No.1279 of 2008

The Special Tahsildar,
Adi Dravida Welfare,
Thirupattur.

...Land Acquisition Officer
/Respondent/Appellant

Vs.

1.Ramasamy Goundar (died)
2.Rani
3.Mani
4.Chakravarthi
5.Mangammal

...Respondents/LRS of deceased sole
Respondent/Appellant/Respondent

(Respondents 2 to 5 brought on record as legal representatives of the deceased sole respondent viz., Ramasamy Gounder vide Court order dated 22.04.2021 in C.M.P.Nos.1557, 1567 and 1571 of 2019 in S.A.No.1279 of 2008 by PTAJ)

PRAYER: Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for ADW Schemes Act 31/78 read with Section 100 of the Code of Civil Procedure against the Judgment and Decree in L.A.C.M.A.No.1 of 1998 dated 10.02.2005 on the file of the learned Sub Judge, Thirupattur, modifying the Award made in Award No.A-21/1995-1996 dated 19.03.1996 (proceedings No.A1/519/93) passed by the learned Special Tahsildar, (Adi Dravidar Welfare), Thirupattur.

For Appellant : Mr.A.E.Ravichandran,
Government Counsel

For Respondents : Mr.P.S.Kothandaraman
for R2 and R5

R1-died



JUDGMENT

The Special Tahsildar (Land Acquisition Officer), Adi Dravida Welfare, Thirupattur, is the appellant before this Court, challenging the enhancement of the Award passed by the learned Sub Judge, Thirupattur in L.A.C.M.A.No.1 of 1998.

2.The lands of the respondent situate at Bandarapalli Village, Thirupattur Taluk, comprised in Survey No.803/5 measuring an extent of 1.29.5 Hec. was the subject matter of the acquisition proceedings. The lands were sought to be acquired for providing house sites to the Adi Dravidars. The Section 4 (1) Notification dated 04.12.1995 under the Act 31/78 was issued and the acquisition proceedings culminated in the Land Acquisition Officer determining a compensation of a sum of Rs.1,60,000/- and in addition, solatium at the rate of 15% and in all the compensation was determined at a sum of Rs.1,84,000/-. Being aggrieved by the low compensation, the respondent had filed his claim before the learned Sub Judge, Thirupattur.

3.The respondent while adducing evidence as C.W.1, had deposed on the facilities available in and around his lands and had also marked Ex.C.2 which is the Sale Deed in respect of an adjacent land which was sold for a consideration of Rs.16 per sq.ft. The respondent had also filed Ex.C.1 which is the Sale Deed registered as Document No.872/94 in which five cents of lands were sold at Rs.20,000/- and from a perusal of which, it is evident that the value of the land was a sum of Rs.9.17 per sq.ft. The learned Sub Judge taking note of these documents had considered and determined the value of the respondent's land for a sum of Rs.5 per sq.ft and after deducting a sum of Rs.1.50p towards development charges ultimately fixed the value of the land acquired at the rate of Rs.3.50 per sq.ft and had enhanced the compensation to a sum of Rs.4,88,320/- and has fixed the solatium at the rate of 15%. In all a sum of Rs.5,61,568/- was determined as the compensation payable for the lands acquired. Deducting a sum of Rs.1,84,000/- which has already been deposited, the appellant herein was directed to pay a sum of Rs.3,77,568/- together with interest @9% from 04.12.1995 to 03.12.1996, 12% from 04.12.1996 to 03.12.1997, 15% from 04.12.1997 till the date of Judgment and thereafter, @15% per annum. Challenging the said Judgment and Decree, the appellant is before this Court.

4.The only ground on which the Award is being challenged that the land which has been taken as a data land for calculating the compensation was the small extent of land and therefore cannot be considered for arriving at the value of the



land. Further, the data land was not close to the lands acquired and when the matter came up for argument, the main argument of the learned Government Counsel was that the interest is high.

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5.The learned counsel for the respondent would submit that the land covered under Ex.C.2 was one prior to the acquisition and therefore, the learned Sub Judge was not wrong in relying upon the said document for arriving at the compensation. As regards the interest, the learned counsel for the respondent would submit that only a reasonable interest has been awarded.

6.Heard the learned counsel appearing on either side and perused the papers.

7.As rightly pointed out by the learned counsel for the respondents, the learned Sub Judge has relied upon the value of a land sold nearly a year prior to the acquisition proceedings which was more or less similar to the land acquired. Though the value of the land which is the subject matter of Ex.C.2 was a sum of Rs.9.17 per sq.ft, the learned Sub Judge has only determined the market value of the land acquired at Rs.5/- and after deducting the Development Charges arrived at a sum of Rs.3.50p. The appellant have not let in any evidence to rebut this.

8.As regards the interest, the learned Sub Judge has only fixed a reasonable interest for which reasons have been given, this Court does not find any reason to interfere with the said determination. The land in question was also taken possession immediately after the acquisition proceedings had been initiated.

9.A perusal of the Judgment under Appeal would clearly show that the learned Judge has not been persuaded into arriving at the market value by the purpose for which the land acquired and consequently fixing the compensation. As already stated, the properties sold in Ex.A.2 was nearly a year prior to the acquisition proceedings and further, the learned Judge has not taken the entire consideration of Rs.9.17p but has only awarded a compensation of Rs.5/- per. sq.ft to the respondent which is very reasonable. The Substantial Question of Laws are held against the appellant and the Second Appeal is therefore, dismissed, however, there shall be no orders as to costs.

Sd/-

Assistant Registrar

True Copy//

Sub Assistant Registrar



mps

To

1. The Sub Judge,
Thirupattur.

2. The Special Tahsildar, (Adi Dravidar Welfare),
Thirupathur.

+lcc to the Special Government Pleader, S.R.No.28397

S.A.No.1279 of 2008

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