IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.02.2021
PRONOUNCED ON : 11.02.2021

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

S.A.No.1420 of 2008
and
M.P.No.1 of 2008

Special Tahsildar (ADW),
Tirupathur. .. Appellant / Respondent

Vs

Andalammal .. Respondent / Appellant

Prayer: Appeal filed under Section 13 of the Tamilnadu Acquisition of land for ADW Schemes Act 31/78 r/w Section 100 of CPC, against the judgement and decree dated 12.01.2004 made in L.A.C.M.A.No.1 of 2002 on the file of Sub Court, Tirupathur, Vellore District modifying the award made in Award No.38/1995-96 dated 25.03.1996 passed by the Special Tashildar, Adi dravidar Welfare, Tirupathur.

For Appellant : Mr.Dev Narendran,
Additional Government Pleader

For Respondent : Mr.G.Jeremiah

JUDGEMENT

This Appeal has been filed against the Judgement and Decree dated 12.01.2004 passed in L.A.C.M.A.No.1 of 2002 on the file of Sub Court, Tirupathur, Vellore District, praying to modify the award made in Award No. 38 of 1995-96 dated 26.03.1996 passed by the Special Tashildar, Adi dravidar Welfare, Tirupathur.

2. The Appeal has been admitted on the following substantial questions of law;

" 1) Whether the Court below erred in not appreciating the fact that the market value for the land acquired had been fixed taking into consideration date sale deed under which the land similar in nature, soil, tharam and classification to the land acquired had been conveyed?

2) Whether the Court below had erred in not appreciating the fact that even on the date of acquisition, the land acquired was being used only for agricultural purposes?

3) Whether the Court below erred in placing reliance on Ex.A1 where under the miniscule extent of land classified as house site had been conveyed?

4) Whether the Court below erred in not appreciating the statutory provisions of Section 8 of Act 31/78, which clearly prohibits taking into consideration of any enhanced value of the land acquired which is likely accrue from the future usage to which it will put? "

3. An extent of land measuring 0.73.0 hectares situated in A.K.Mottur Village of Tirupattur Taluk has been acquired by the Government for the purpose of providing house sites to the Adi Dravidars under sub-section (1) of section 4 of the Tamil Nadu Acquisition of land for Adi Dravidar Welfare Schemes Act 1978 (Tamil Nadu Act 31 of 1978) and a compensation for a sum of Rs.62,215/- was awarded by virtue of the proceedings of the Special Tahsildar (ADW), Thirupathur on 25.03.1996.

4. The respondent has filed a Civil Miscellaneous Appeal before the Sub Court, Thirupathur. After hearing the Civil Miscellaneous Appeal, the learned Sub Judge has enhanced the compensation to Rs.7,84,800/-. The Appellant submitted that the Court below has erred in not appreciating the considerations given by the Special Tashildar in fixing the rate per square feet. It is further contended that the lower Court even over looked the fact that even on the date of acquisition, the acquired land was used only for agricultural purpose and the Court has wrongly placed reliance on the sale deeds produced by the respondent. It is further submitted that the Court did not appreciate the statutory mandates under Section 8 of Act 31/78, which prohibits awarding of the enhanced value for the acquired land by taking into consideration of the value that would likely to accrue from the future usage.

5. While appreciating the fairness of the compensation awarded by the Special Tahsildar, the learned Sub Judge took into account of the potential nature of the land under acquisition. In fact, Ex.B3 the sale deed relating to S.No.46/1 shows that the land has no connectivity with the main road and even Ex.B4 / Sketch also shows the same. But the land of the respondent in S. No.109/1A is situated on the National Highway and it is surrounded by Temple, High School, Post office and Co-operative Banks. The Court below has appreciated these features present around the land while fixing a better value. The Special Tahsildar has omitted to take into consideration of the recent sale transactions effected on 18.02.1993 in respect of the S.No. 2/3C and on 27.12.1993 in respect of S.No. 591/2. (Ex.C3 and ExC1) The sale price of these sale deeds would show that the properties have been sold at the rate of Rs.16 and Rs.17 respectively. The Special Tahsildar omitted to take these important into consideration, Instead he has taken into consideration of the sale price of the land, involved in Ex.B3, which is far from the acquired land. In fact the comparative sample land did not even have any road connecting to it. Had the Special Tahsildar considered the essential factors which are needed to be considered while fixing the market value, the market value would have been definitely better than the one he fixed. The court below has taken note of the factors omitted to be taken for consideration by the Land Acquisition Officer and arrived at a better market value.

6. If vital facts and features that would fetch better value for the impugned land are omitted, no fair value can be fixed for the purpose of awarding compensation. The Lower Court has fixed the fair compensation, by considering the above mentioned vital factors. While fixing market price, the Court below has taken the comparative sample of a similar kind. Only after appreciating these essential factors, the lower Court has fixed the rate for compensation at Rs.10 per Sq. ft., which in my opinion is very reasonable. Hence substantial questions of law 1 to 3 are answered against the Appellant.

7. Section 8 of the Act 31/78 of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes, 1978 stipulates certain factors which are to be ignored while determining the compensation. As per sub section (e) of Sec. 8, any increase to the value of the land acquired likely to accrue from the use to which it will be put to should be ignored. The appellant herein

has submitted that the Court below has erroneously taken the said factor into consideration while enhancing the value for the acquired land.

8. On perusal of the Judgement of the Lower Court, I do not find anywhere that the Lower Court has attached significance to the future use and the likelihood of the resultant raise in the market value the land. So this objection was raised by the Government has not been substantiated. As the objection raised through the 4th substantial question of law does not deserve any merit, the questions of law No.4 also answered against the Appellant.

9. Since I find the enhanced fixation of the market price for the land subjected to acquisition at the rate of Rs.10/- per sq. Ft is very reasonable and the factors considered to arrive at the said rate also correct, the judgement of the lower court does not warrant any interference. Consequently, this Second Appeal is dismissed. No costs. Connected miscellaneous petitions if any are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Subordinate Judge, Tirupathur,
   Vellore District.

2. The Special Tashildar,
   Adi dravidar Welfare, Tirupathur.

Copy To:

The Section Officer,
V.R.Section, High Court, Madras.

+1cc to Mr.G.Jeremiah, Advocate, S.R.No.7979
+1cc to the Government Pleader, S.R.No.8310

S.A.No.1420 of 2008

KK(CO)
SB(27/10/2021)