

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.S.A.No.22 of 2005

Vijayalakshmi

.. Appellant/Appellant/Land Owner

vs.

Special Tahsildar
(Land Acquisition)
Adi-Dravidar Welfare Department,
Chidambaram.

..
Respondent/Respondent/
Land Acquisition Officer

PRAYER : Civil Miscellaneous Second Appeal filed under Section 13 of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, against the judgment and decree made in C.M.A.No.35 of 2001 dated 15.09.2004 on the file of the Court of Sub-ordinate Judge, Chidambaram in confirming the award passed in Award No.10 of 2000-2001 dated 22.11.2000 on the file of the Special Tahsildar (Land Acquisition) Adi-Dravidar Welfare Department, Chidambaram.

For Appellants : Mr.H.Muthukumar

For Respondent : Mr.Y.T.Aravind Gosh

Additional Government Pleader (CS)

O R D E R

The Civil Miscellaneous Second Appeal is filed challenging the judgment and decree made in C.M.A.No.35 of 2001 dated 15.09.2004 confirming the award passed in Award No.10 of 2000-2001 dated 22.11.2000.

2. Initially, the learned counsel appearing for the appellant raised a question of law by stating that the Special Tahsildar, Land Acquisition, Adi-Dravidar Welfare Department is not the competent authority under the Act to pass an award.

Therefore, the award itself is null and void. It is contended that there was no delegation of powers. In this regard, this Court directed the learned Additional Government Pleader to file a report and accordingly, the Special Tahsildar, Land Acquisition, Adi-Dravidar Welfare Department filed a report before this Court stating that "as per Section 3(j) and 14 of The Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (T.N.Act 31/1978)

"3(j) "prescribed authority" means any authority or officer authorized by the Government in this regard, by notification.

14. Power of prescribed authority in relation to determination of amount.-(1) The prescribed authority may, for the purpose of carrying out the provisions of this Act, by order, require any person to furnish such information in his possession relating to any land which is acquired under this Act.

(2) The prescribed authority shall, while holding an inquiry under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908(Central Act V of 1908) in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any Court or office;

(e) issuing commission for examination of witnesses".

6. In this regard, it is submitted that the Special Tahsildar, Harijan Welfare has been authorised to be the prescribed authority under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (T.N.Act 31/1978) vide G.O.Ms.No.1628, Social Welfare, Dated:21.09.1979 which is given as follow.

"No.II(2)/SW/5979(h)/79-In exercise of the powers conferred by clause(j) of Section 3 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31 of 1978), the Governor of Tamil Nadu hereby authorises the (Special Tahsildar, Harijan Welfare) to be the prescribed authority referred to in the Act".

It is therefore humbly concluded that the Special Tahsildar (Land Acquisition), Adidravida Welfare is the prescribed authority under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (T.N.Act 31/1978) and acts upon vide the powers conferred by the G.O.Ms.No.1628, Social Welfare, Dated:21.09.1979."

3. In view of the fact that the Special Tahsildar is empowered to pass an award in view of delegation of powers conferred, the learned counsel appearing for the appellant raised the next question of law by stating that whether the learned Sub-ordinate Judge erred in law in rejecting the

Ex.P1/Sale deed dated 26.07.2000, long prior to the notification under Section 4(1) of the Act?

4. With reference to the said question of law, the facts in nutshell reveals that the land was acquired for the purpose of grant patta for landless poor people under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act. Notification was issued and the procedures contemplated under the Act was followed by the Competent Authorities and an award was passed in proceedings dated 22.11.2000. Pursuant to the award, possession was taken and the lands were allotted to the poor landless people. The Special Tahsildar himself considered the various facts regarding the market value with reference to the documents registered in adjacent lands. Accordingly, the award was fixed and the said amount was deposited also. The appellant preferred further appeal before the Sub-Court, Chidambaram in C.M.A.No.35 of 2001. The main reliance placed on by the appellant even before the Appellate Court was that the Special Tahsildar failed to consider the documents registered in Ex.P1, which is sale deed dated 26.07.2000. A perusal of the said document/Ex.P1 reveals that the sale deed was executed by none other than the husband of the appellant and more specifically, Ex.P1/sale deed was registered on 26.07.2000 after issuance of the acquisition proceedings under the Act on 08.06.2000. Exactly after one month from the initiation of the land acquisition proceedings, the husband of the appellant registered the sale deed on 26.07.2000 which is Ex.P1. Therefore, the Tahsildar formed an opinion that such a document cannot be taken into consideration for the purpose of enhancement of compensation. The Appellate Court also made a categorical finding that Ex.P1/Sale deed was registered by the husband of the appellant and he is an interested party. Therefore, the reliance placed on by the appellant for enhancement deserves no merit consideration. Further, the appellant has pleaded that the land acquired is a qunja land and therefore, fixation of compensation is inadequate. This being the pleadings, the Appellate Court made a finding that there was no document to establish the said contention. The Appellant could not able to establish the said ground and therefore, arrived a conclusion that the compensation fixed by the Special Tahsildar is proper and in accordance with the market price. The First Appellate Court considered all the grounds raised by the appellant elaborately and with reference to the documents. The main ground raised regarding the document registered in Ex.P1 was also properly dealt with by the Appellate Court. This being the factum, the appellant has not raised any further acceptable substantial question of law for the purpose of further adjudication.

5. It is pertinent to note that the other two documents

filed by the appellants were also dealt with by the Appellate Court. The Original Authority as well as the First Appellate Court elaborately considered the nature of the land acquired and the market price prevailing in the locality as well as the documents which were filed by the respective parties and accordingly, fixed the compensation. This being the factum established, this Court do not find any acceptable substantial question of law for the purpose of considering the appeal any further.

6. As per the Act, the appellant is entitled for the interest at the rate of 6% per annum from the date of taking possession. However, both the Special Tahsildar as well as the Appellate Court has failed to grant interest as per the Act. Thus, this Court is inclined to grant interest for the award amount. Thus, the appellant is entitled for interest at the rate of 6% per annum from the date of possession till the deposit of the award amount and the respondents are directed to calculate the said interest amount and deposit the same before the Court concerned within a period of three months from the date of receipt of a copy of this order.

7. Accordingly, the Fair and Decreetal order dated 15.09.2004 passed in C.M.A.No.35 of 2001 confirming the award dated 22.11.2000 passed in award No.10 of 2000-2001 by the Special Tahsildar stands modified and the Civil Miscellaneous Second Appeal stands allowed in part. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssb

To

1.Special Tahsildar
(Land Acquisition)
Adi-Dravidar Welfare Department,
Chidambaram.

2. Sub-ordinate Judge, Chidambaram

Copy to:

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

+lcc to Mr.A.Muthukumar, Advocate, S.R.No.12574
+lcc to the Spl Government Pleader, S.R.No.12509

PVS (CO)
CB(09/04/2021)

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