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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

S.A.No.877 of 2003
and CMP.No.17013 of 2003

Special Tahsildar,
Adi Dravidar & Tribal Welfare,
Pollachi.

...Appellant/Respondent

vs.

1. Palaniswamy (deceased)
2. Tmt.Someswari ...Respondents 1 & 2/Claimants
3. P.Murugananthan
4. P.Baghiyalakshmi ...Respondents 3 & 4/LRS of
deceased 1st Respondent

*[RR3 & 4, brought on record as LR's of the
deceased R1, vide order of this Court,
dated 30.04.2010 made in CMP.No.735 to 737/2010]

Prayer: Second Appeal filed under Section 100 CPC, against the judgment and decree, dated 12.03.2001 made in CMA. No.19 of 2000 on the file of the Principal Subordinate Judge, Udumalpet modifying the award made in Award No.19/99-2000, dated 23.03.2000 passed by the Special Tahsildar (Land Acquisition), Adi Dravida Welfare, Pollachi.

For Appellant	:	Dr.S.Suriya, G.A.(CS)
For Respondents	:	
for R1	:	Died-steps taken
for R2 to R4	:	Mr.Gopalakrishnan for M/s.B.Kumarasamy

JUDGMENT

This second appeal has been filed challenging the judgment and decree passed by the Sub Court, Udumalpet in CMA. No.19 of 2000, wherein the compensation payable to the respondents/claimants for the acquisition of the lands in Survey No.134/4, extent 0.36.5, Survey No.134/5, extent 0.60.5 and Survey No.134/6, extent 0.63.5, total extent 1.60.5 hectare equivalent to 3.96 acre was enhanced by calculating at Rs.3,000/- per cent, instead of Rs.9,600/- per acre, fixed by



the Special Tahsildar (Adi Dravidar & Tribal Welfare) in his award dated 23.03.2000 in Award No.19/99-2000.

2. According to the appellant, the rate fixed by the Sub Court, by comparing the adjacent market value of the land is not in accordance with law. This Court while admitting the second appeal on 16.07.2003 has formulated the following substantial questions of law:

a) Whether the Court below has right in enhancing the compensation by relying the documents placed by the respondent herein.

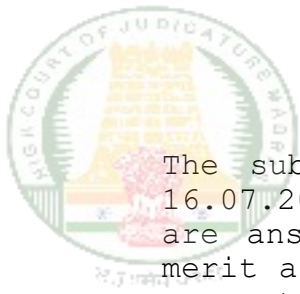
b) Whether the Court below in enhancing the compensation by relying on the market value of adjacent lands is correct.

c) Whether the Court below right in enhancing the compensation after referring the exhibit produced by the appellant herein.

3. Before the Land Acquisition Officer as well as before the Sub Court, the respondent/claimants had relied upon the following sale deeds to substantiate their claims:

- a) Ex.A1 - 13.04.1988 : xerox copy of sale deed executed by Someshwari in favour of Muthuswami.
- b) Ex.A2 - 20.11.1997 : xerox cop of sale deed executed by Someshwari in favour of Murugasamy.
- c) Ex.A3 - 20.11.1997 : xerox cop of sale deed executed by Someshwari in favour of Saraswathi
- d) Ex.A4 - 20.11.1997 : xerox cop of sale deed executed by Someshwari in favour of Ganesan.

4. Admittedly, the aforementioned sale deeds pertain to the adjoining lands to that of the land, which were acquired from the respondents/claimants. Excepting for producing the Land Acquisition Officer file, which was marked as Ex.B1 by the appellant, no contra evidence has been produced by appellant to prove that the fixation of compensation at Rs.3,000/- per cent for the lands acquired from the respondents/claimants is on the higher side. The learned Sub Court under the impugned judgment and decree dated 12.03.2001, has given due consideration to the sale deeds referred to supra pertaining to the adjoining lands and only thereafter, has fixed the compensation payable to the respondents/claimants land at Rs.3,000/- per cent. The judgment of the Sub Court, which is under challenge is a well considered judgment. This Court under Section 100 CPC cannot re-appreciate the evidence when the findings given by the Sub Court in the impugned judgment, is based on the evidence available on record. As seen from the evidence available on record, there is no misappreciation of evidence by the learned Sub Court. The appellant cannot re-agitate factual issues, which have already been adjudicated only based on the evidence available on record.



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The substantial questions of law formulated by this Court on 16.07.2003 at the time of the second appeal referred to supra are answered against the appellant as it does not deserve any merit as there is no substantial question of law involved in the present appeal.

5. It is also brought to the notice of this Court, by the learned counsel for the appellant, that eventhough a conditional order of stay was granted by this Court at the time of admission of the second appeal, the stay condition is also not complied with by the appellants.

6. For the foregoing reasons, there is absolutely no merit in this appeal. Accordingly, this second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,
Udumalpet.
2. The Special Tahsildar (Land Acquisition),
Adi Dravida Welfare,
Pollachi.

+lcc to Mr.B.Kumarasamy, Advocate Sr.28846
+lcc to the Government pleader Sr.28873

S.A.No.877 of 2003

rsi[co]
srg 29/10/2021