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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.02.2021
PRONOUNCED ON : 15.02.2021

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

S.A.No.1063 of 2010

The Special Tahsildar (ADW),
Ulundurpet,
Villupuram District.

...Appellant / Respondent /
Land Acquisition Officer

Vs

Thirumathi Ambika

...Respondent / Appellant /
Claimant

Prayer: Appeal filed under Section 13 of the Tamil Nadu Acquisition of land for ADW Schemes Act 31/78 r/w Section 100 of CPC, against the judgment and decree made in C.M.A.No.26 of 1999 dated 27.01.2005 on the file of Principal Subordinate Judge, Villupuram modifying the award made in Award No.1/99-2000, dated 16.06.1999 passed by the Special Tahsildar, (Adi dravidar Welfare), Ulundurpet.

For Appellant : Mr.Dev Narendran
Additional Government Pleader

For Respondent : No appearance

JUDGEMENT

This appeal has been filed against the judgement and decree dated 27.01.2005, passed in C.M.A.No.26 of 1999, on the file of the learned Principal Subordinate Judge, Villupuram District, praying to modify the award made in Award No.1/99/2000, dated 16.06.1999 passed by the Special Tahsildar, (Adi dravidar Welfare), Ulundurpet.

2. The following substantial questions of law have been admitted;

"1) Whether the Court below erred in placing reliance on Ex.A3 for fixing the market value without entering into any discussion or giving finding as to the similarity in nature, classification and proximity of the land acquired and the land conveyed under the said document?

2) Whether the Court below erred in fixing the market value of the dry land acquired by the



Government by taking into consideration the market value of a house site?"

3. The Appellant Government has acquired the lands belonging to the respondent in R.S.Nos.93/1,6,7,8,9,11-A,13,14,15,16 and 17 measuring a total extent of - 0.73.5 Hectares (1 acre 81 cents) in Semmar village for the purpose of issuing house sites to the people of Adi Dravidar Community. The Land Acquisition Officer cum Special Tahsildar (ADW) has passed an award No.1/1999 on 31.05.1999 for acquiring the said lands, in which he fixed the compensation at Rs.1,25,266/-. The Land acquisition Officer has fixed the market value of land at Rs.1,08,927/- and added a solatium of Rs.16,339/- to arrive at the above said amount. The respondent raised objection stating that the Land Acquisition Officer did not consider the potential nature of the land and fixed the market price at a very low price of Rs.60,000/- per acre. That means he has taken the market price for a cent at Rs.600/-.

4. On perusal of the records, it is seen that the Land Acquisition Officer considered the sale deed dated 15.05.1998, pertaining to S.No.84/86. The extent of land conveyed in that sale deed was a small piece of 18 cents and its sale price was Rs.10,800/-. While taking the sample land for comparison similar extent and kind of land ought to have been picked up by the concerned Authority. Admittedly, the lands acquired from this respondent is a larger extent comprising 1 acre and 81 cents (0.73.5 Hectares). But the comparative land is a small piece of 18 cents only and which in all probabilities will not fetch a better market price than a larger extent which could be better utilized at the option of the buyer for several purposes.

5. The notification for acquisition was issued on 29.01.1999. The learned Additional Government Pleader submitted that the lower court has taken into consideration of the Ex.A1 and Ex.A2 sale deeds, which were executed prior to 3 years and it was wrong. On perusal of Ex.A1 and Ex.A2 sale deeds it is seen that the land subjected to conveyance by virtue of those sale deeds situated in S.No. 91/16B and the extent of property measures 34 cents each. Ex.A1 sale deed is dated 02.10.1993 and the sale price for the said conveyance was seen to be at Rs.1,250/- per cent. Ex.A2 sale deed is dated 18.09.1996 and the sale price for this conveyance seems to be fixed at Rs. 1,500/- per cent. The Concerned Authority refused to take up Ex.A1 and Ex.A2 sale deeds for comparison by stating that they have been executed more than 3 years prior to the acquisition notification.

6. The reason for considering the recent conveyances to fix market price is because of the raise in the market price of the lands across the years. Old sale deeds would only reflect the market price which was in existence at that relevant point



of time and which would be normally below than the present market price. In this case the market value for the lands near by to the lands had acquired had a market value of Rs.1250/- and Rs.1500/- per cent even before 3 to 6 years. Despite that the Land Acquisition Authority opted to fix the market price only at Rs. 600/- per acre by taking the sample from a small piece conveyance. The respondent herself sold her own property in S.No.73/10 on 12.11.1998 through Ex.A3 at the rate of Rs.2001.85/- per cent. But these facts were not considered by the Land Acquisition Officer.

7. It is seen from Ex.A8, objection letter of the respondent that the respondent has raised sugar cane crops, laid pipeline of 9 inches diameter for irrigating the land. The impugned land is situated on the main Road and it is nearby to many important places like temples etc., Even the special features like pipelines, proximity to the main road, the fertility of the soil and all other similar factors surrounding the acquired land was also not considered by the Land Acquisition Officer. The lower Appellate Court took into consideration of these essential facts while arriving at a market price. So, the Court below has not erred in placing reliance on Ex.A3 for fixing the fair market price for compensation.

8. A Nanja land, which had sugar cane crops and irrigated through well developed pipelines have been acquired. The LAO himself has admitted that in his evidence that value for the land. Further contention of the learned Additional Government Pleader is that the Court below has erred in not appreciating the provisions of Section 8 of Act 31/78, which prohibit the consideration of certain factors like increase to value likely to accrue due to future usage. The whole reading the Lower Court Judgement would show that the Lower Court has rightly omitted to ignore all the factors set under Section 8 of 31/78. So, the exercise of the Lower Court for fixing the market price at a little enhanced value does not suffer from any factual or legal infirmity, which warrants interference. Hence, the substantial questions are answered against the Appellant.

9. In the result I find no merits in the Appeal filed by the Appellant and hence this Appeal is dismissed and the Judgement and Decree of the lower court is confirmed. No costs. Consequently, connected miscellaneous petitions if any are also closed.

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

kmm



To

1.The Principal Subordinate Judge,
Villupuram

2.The Special Tahsildar,
(Adi dravidar Welfare),
Ulundurpet.

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

+1cc to the Special Government Pleader(CS) SR.No.8844

S.A.No.1063 of 2010

NRL(CO)
RVM(24/09/2021)