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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.09.2021	Pronounced on: 15.09.2021
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CORAM:

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

S.A.No.991 of 2009

and

M.P.No.1 of 2009

The Special Tahsildar (ADW)
Tirupattur.

.. Appellant/Respondent
/Land Acquisition Officer

Vs.

Sampoornammal (died)
S.Venkatesan

.. Respondent/Appellant/Claimant

PRAYER: Second Appeal is filed under Section 13 of the Tamil Nadu Acquisition of land for ADW schemes Act 31/78 r/w section 100 of C.P.C, against the Judgement and Decree made in C.M.A.No.9/1996 dated 05.10.2005 on the file of the Sub Court, Tirupattur, modifying the award made in Award No.34/95-96, dated.22.03.1996 passed by the Special Tahsildar, (Adi Dravidar Welfare), Tirupattur.

For Appellant : M/S.Dr.S.Suriya
Government Counsel
For Respondent : No appearance

J U D G M E N T
(Heard through video conferencing)

This Second Appeal arises out of the judgement and decree dated 05.10.205 passed by the first Appellate Court/Sub Court, Tirupattur, Vellore District in C.M.A.No.9 of 1996 modifying the Award made in Award No.34/1995-96 dated 22.03.1998 passed by the Special Tahsildar(Adi Dravidar Welfare), Tirupattur.

2. The Appellant is the Land Acquisition Officer cum Special Tahsildar, Adi Dravidar Welfare, Tirupattur.



3. The subject land belonged to one Sampooranammal, mother of the respondent. The total extent of 1Acre 16 cents is situated in two Town Survey Nos. 3/1 and 3/3 belonged to the respondent. The appellant issued acquisition proceedings vide its order No.A1.849/93, Award No.34/95-96, dated 22.03.1996, to acquire the above said lands for the purpose of issuing free house sites to Adi Dravidar community. The compensation for the said lands was fixed at Rs.90,000/- per acre and thus worked out to Rs.1,20,060/- , which is inclusive of 15% solatium. Aggrieved over the same the said Sampooranammal filed a Civil Miscellaneous Appeal in CMA.No.9/96 before the sub Court, Tirupattur. She died during the pendency of the proceedings. Hence her son, who is the respondent herein has been impleaded as her legal heir. One of the grievance raised by the respondent before the sub Court is that the Land Acquisition Officer had failed to calculate the compensation for the subject land on the basis of square feet.

4. After considering the submissions made by both the parties the learned Sub Judge allowed the appeal and enhanced the compensation to Rs.4,65,299.20 in respect of the lands situated in T.S.Nos.3/1 & 3/3 by modifying the award of the Appellant passed in Award No.34/95-96, dated.22.03.1996. Aggrieved over the same the appellant has filed this Second appeal with the above said prayer. This Second Appeal has been admitted on the following substantial questions of law:

- " 1.Whether the Court below erred in placing reliance upon a sale deed, Ex.A.1 under which land classified as house site was conveyed when the land acquired is admittedly agricultural land and is being used as such?
- 2.Whether the Court below erred in fixing the compensation at square feet basis when the total land acquired is more than 3 acres?
- 3.Whether the Court below erred in awarding interest at the rate of 9%, 12% and 15 % for different periods when Act 31/78 contemplates awarding of interest only at the rate of 6%?
- 4.Whether the Court below erred in not appreciating the statutory provisions of Section 8 of the Act 31/78, which clearly lays down that the likelihood of increase of the value of the property due to the use to which it will be put after acquisition shall not be taken into consideration?"



5. While making her submissions Dr. S. Suriya, learned Government Advocate has fairly submitted that the compensation fixed for the total extent of 1 acre 16 cents in T.S.Nos.3/land 3/3 was high and the reference land has different physical features.

6. On perusal of the grounds of the Second Appeal, it is seen that there is no specific mention about the survey numbers and the submissions were made in a generalized manner.

7. While fixing the compensation for the subject land, the learned Sub Judge has taken into consideration of the contemporary sale transactions of the adjacent lands. It is also seen that the subject land is situated in Town Survey limits and is surrounded by residential houses and commercial buildings and it has all urban facilities. The appellant himself has admitted that even during the earlier such proceedings of similar lands the compensation has been fixed on the basis of the square feet rate.

8. Having distinguished that the reference land situated in Survey No.403/2 the learned sub judge had elaborated about the features like well established broader roads and other conveyance facilities surrounding the subject land. The learned Sub Judge has also appreciated the demand for the subject land in comparison to the reference lands relied by the appellant and justified the compensation fixed at Rs.8.00 per square feet.

9. By taking into consideration of the escalation in the market rate, the learned Sub judge has fairly enhanced the compensation by fixing it at Rs.8.00 per square feet for the subject lands in T.S.Nos.3/1 and 3/3. Hence I find no reason to interfere with the judgment and decree passed by the learned Sub Judge, First Appellate Land Acquisition Sub Court, Tirupattur in C.M.A.No.9/1996 dated 05.10.2005.

In the result the Second Appeal stands dismissed and the judgment and decree of the First Appellate Court is confirmed. The connected miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar



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1.The Sub Court, Tirupattur.

2.The Special Tahsildar,
(ADW), Thirupathur,
Vellore District.

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

+lcc to the Government Pleader, SR.No.47295

S.A.No.991/2009
and
M.P.No. 1/2009

SS(CO)
CB(17/02/2022)