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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

A.S.Nos.761 & 762 of 2014

Masilamani

...Appellant/Petitioner
in A.S.No.761 of 2014

Murugadoss

...Appellant/Petitioner
in A.S.No.762 of 2014

Vs

The Special Tahsildar,
(Adi Dravidar Welfare),
Ulundurpet.

...Respondent in both Appeals

COMMON PRAYER: Appeal Suits filed under Section 96 of CPC to set aside the Judgment and Decree dated 27.09.2011 made in LAOP Nos.60 & 61 of 1999 on the file of the II Additional Subordinate Judge, Villupuram.

For Appellants : Mr.M.Sriram

For Respondent : Dr.S.Suriya,
Government Advocate (CS)

COMMON JUDGMENT

These Appeal suits are filed against the Judgment and Decree 27.09.2011 made in LAOP Nos.60 & 61 of 1999 on the file of the II Additional Subordinate Judge, Villupuram.

2. For the sake of convenience, the parties are referred to as per their ranking in the trial Court.

3. The case of the claimants is that their respective lands were acquired for the purpose of house site to the most backward class situated at Sithathur Village, Tirukoilur Taluk. The Acquisition Officer passed an award by fixing at Rs.200/- per cent and awarded compensation. The claimants sold part of the property comprised in same survey number to one Gurunathan by registered sale deed dated 22.06.1995, in which the land value was fixed at Rs.600/- per cent. Accordingly to the



claimants, the land is sold in very near to the land acquired, therefore, the Acquisition Officer should have fixed the value at the property of Rs.800/- per cent.

4. Per contra, the Acquisition Officer filed a counter stating that the land belonged to the claimants were acquired for the purpose of issuing to the landless poor belonging to the most backward class. The Government approved the acquirement dated 23.03.1998 and passed an award on 09.02.1998, 30% solatium for the acquired land and 12% additional market value for the acquired land and the market value had been paid to the claimants. The award amount also received by the claimants with protest. Based on his protest, the reference was made to the Court below on 23.06.1998 for fixing the market value for the acquired land. 21 sale deeds were collected three years prior to 4(1) notice dated 09.03.1996, in which, Sl.No.15 is data sale deed and other deeds were rejected as dissimilar. The sale deed in Sl.No.15, a sale of 1.03 cents in Survey No.70/1A and 1 acre in Survey No.70/1B - total 2.03 cents. The said extent was sold for a sum of Rs.40,600/- vide registered sale deed in document No.2102/1995 dated 23.11.1995. As per the above data sale deed, the market value for 1 acre is Rs.20,000/- i.e., 1 cent = Rs.200/-.

5. After completion of pleadings, the Court below framed the following points for determination :

" 1. Whether the land acquisition officer has fixed correct market value for the acquired land ?

2. Whether the claimant is entitled to enhanced compensation ?

3. If so to what amount ?"

6. On the side of the claimants, they examined C.W.1 and marked Ex.P1. On the side of the respondent herein, they examined R.W.1 and no exhibit was marked. On considering the oral and documentary evidences adduced by the respective parties and the submissions made by the learned counsel, the Court below enhanced the value of the property which was acquired by the respondent and fixed a sum of Rs. 350/- per cent and accordingly, passed the award. Aggrieved by the same, the present Appeal suit is preferred by the claimants.

7. The learned counsel for the appellants would submit that the claimants examined themselves as D.W.1 and marked Ex.P1. Ex.P1 is nothing but a sale deed, which was executed by one of the claimants in respect of part of the property in the very same survey number, which was acquired by the respondent, by a registered sale deed dated 22.06.1995. The land value was fixed at Rs.600/- per cent for the total extent of 0.22 cents for a total sale consideration of Rs.13,200/-. The Referral



Court duly considered the said sale deed and concluded and found the market value of Rs.200/- per cent is low as the date of 4(1) notification is 09.03.1996 and the date of sale which took place on 23.11.1995. The Referral Court further concluded that the Acquisition Officer did not show or discuss about the distance between the land of data sale deed and the acquired land. Therefore, the Referring Officer decided that the claimants were entitled for enhanced compensation in addition to the 12% for enhanced compensation from the date of 4(1) notification. Even the Referral Court has enhanced a sum of Rs.350/- from Rs.200/- When the Referral Court has duly considered Ex.P1 and valued to fix the same value. Therefore, the claimants are entitled for enhancement of compensation as per Ex.P1 sale deed.

8. Per contra, the learned counsel for the respondent submitted that as per the award of their acquired land, the entire award amount has been deposited and the same was also received by the claimants on protest. Based on the pleadings, acquisition proceedings before the Referral Court and enhanced the award amount from Rs.200/- per cent to Rs.350/-. Whereas, the data sale deed which was considered by the acquisition officer to pass an award, the sale deed of the land comprised in Survey No.70/1A ad-measuring 1 acre and Survey No.70/1B in total 20.03 acres for the total sale consideration of Rs.40,600/-. As per the market value for 1 acre was fixed at Rs.20,000/- i.e., 1 cent = Rs.200/-. When it being so, the Referral Court based on the Ex.P1 enhanced the award from Rs.200/- to Rs.350 per cent. Therefore, does not warrant any interference by this Court and as per the enhanced award amount and the same was also duly paid by the claimants and prayed for dismissal of the appeal suit.

9. Heard, Mr.M.Sriram, learned counsel appearing for the appellants and Dr.S.Suriya, learned Government Advocate (CS) appearing for the respondent.

10. The appellants are the claimants and the respondent is the Acquisition Officer. The land belonged to the claimants in A.S.No.761 of 2014 comprised in Survey No.32/12 ad-measuring 0.39.5 ares, Survey No.33/5B ad-measuring 0.13.0 ares and Survey No.33/6 ad-measuring 0.36.5 ares, totally 0.89.0 ares and in A.S.No.762 of 2014 comprised in Survey No.33/1 ad-measuring 0.06.5 ares, Survey No.33/2 ad-measuring 0.25.5 ares, Survey No.33/3 ad-measuring 0.32.0 ares, Survey No.33/4 ad-measuring 0.35.0 ares, Survey No.33/5A ad-measuring 0.13.5 ares and Survey No.33/7B1 ad-measuring 0.40.5 ares, totally 1.53.0 hectares, for the purpose of issuance of patta to the landless power belong to the most backward class. Both the claimants are none other than father and son in both appeals. For the aforesaid purpose, Section 4(1) of the Land Acquisition Act, the notification date is 09.03.1996 under Section 5(A) of the Land Acquisition Act,



enquiry was conducted on 21.06.1996 and 4(1) notification issued on 09.03.1996 and the award was passed by the Acquisition Officer. The award amount was duly paid to the claimants and the same was received with protest.

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11. On the basis of the protest, it was referred before the Referral Court, the claimants filed a petition for enhancement and respondent filed a counter. The claimants marked Ex.P1-Sale Deed, which was executed by the appellant in A.S.No.761 of 2014 in respect of the part of the property comprised in same survey number, which was acquired by the land acquisition officer ad-measuring 0.22 cents to one Gurunathan by registered Sale Deed dated 23.11.1995. In the said sale deed, the value fixed at Rs.600/- per cent for the land. The respondent, while passing an award for compensation, considered the sale deed dated 23.11.1995 and fixed the market value of the property at Rs.200/- per cent. The Referring Officer failed to show the distance between the land of the data sale deed and the acquired land. Whereas, Ex.P1, the land, which was part of the acquired land sold out to one Gurunathan by the appellants themselves. Therefore, the Referral Court considered the same and concluded that the value is very close to Sithathur Village and it can be cultivated at all the times. Therefore, the award fixed by the Referral Officer is very low and the date of 4(1) notification is 09.03.1996 and the data sale took place on 23.11.1995. However, the Referral Court determining the market value of the acquired land at Rs.350/- per cent. There is absolutely no reason to reduce the compensation from Rs.600/- to Rs.350/- per cent. There is no basis for fixing the market value at Rs.350/- per cent for the land acquired by the respondent herein. It is pertinent to mention that the land which was sold out by one of the appellant herein is part of the land which was acquired by the acquisition officer comprising in the same survey number.

12. That apart the data sale deed which was considered by the Acquisition Officer dated 23.11.1995, whereas the Ex.P1 is prior to the said sale dated 22.06.1995. Therefore, the compensation is liable to be enhanced. This Court determined the market value for the acquired land at Rs.600/- per cent. The respondent is directed to deposit the enhanced award amount within a period of three months from the date of receipt of a copy of this order. The appellants are entitled for the interest @ 12% per annum to the market value of the land from the date of 4(1) notification dated 28.02.1996 to 09.02.1998 till the award. 30% solatium of market value and they are entitled for 9% interest on solatium amount till the date of deposit. The balance award amount shall be paid to the appellants within a period of three months from the date of receipt of a copy of this order.



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13. In the result, both the appeals are allowed. No costs.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

The II Additional Subordinate Judge,
Villupuram.

Copy to
The Section Officer
VR Section
High Court, Madras 104.

+2 Ccs to Mr.M.Sriram, Advocate sr 29647 & 29648
+1 CC to The Special Government Pleader(AS) sr 29659, 29660.

A.S.Nos.761 & 762 of 2014

AJS (CO)
SP(29/10/2021)