



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

C.R.P. (NPD) (MD)Nos.1426 and 1427 of 2014

and

M.P. (MD)No.1 of 2014

WEB COPY

CRP (NPD) (MD)No.1426 of 2014

The Special Tahsildar (LA)
Adi Dravidar Welfare
Unit - 1,
Dindigul

... Petitioner/Respondent

versus

1. Govindasamy (died)
2. G.Ramayammal
3. G.Amirthavalli
4. G.Gulasekarapandian
5. G.Dhanalakshmi
6. G.Janaki

... Respondents/Respondents

(R2 to R6 are brought on record as
legal heirs of the deceased first
respondent vide order dated 18.01.2021
made in C.M.P. (MD)Nos.10911 to
10913 of 2016)

Civil Revision Petition filed under Article 227 of the
Constitution of India, against the Judgment and Decree dated
03.03.2009 made in L.A.C.M.A.No.1 of 1999 on the file of the
Principal Subordinate Court, Dindigul.

CRP (NPD) (MD)No.1427 of 2014

The Special Tahsildar (LA)
Adi Dravidar Welfare
Unit - 1,
Dindigul

... Petitioner/Respondent

versus

1. Muthulakshmi
2. Chandrasekaran
3. Rajendran

... Respondents/Appellants

Civil Revision Petition filed under Article 227 of the
Constitution of India, against the Judgment and Decree dated
<https://hcservices.ecourts.gov.in/hcservices/>



03.03.2009 made in L.A.C.M.A.No.2 of 1999 on the file of the Principal Subordinate Court, Dindigul.

For Petitioner in
both CRPs.

: Mr.V.R.Shanmuganathan
Special Government Pleader

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For Respondents in

: Mr.G.Aravinthan for R2 to R6
(in CRP(MD).1426 of 2014)

Mr.G.Aravinthan for R1 to R3
(in CRP(MD).1427 of 2014)

COMMON ORDER

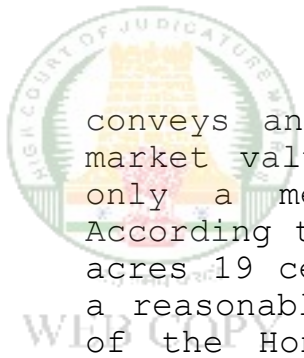
These two Civil Revision Petitions are against the award passed by the Principal Sub Court, Dindigul in LACMA Nos.1 and 2 of 1999.

2. An extent of 1.69.5 hectares equivalent to 4.19 acres was acquired under a Notification dated 17.08.1998 issued under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31/1978) for the purpose of provision of free house sites to Adi-Dravidars residing at Gurunathanaickanur Village. The Land Acquisition Officer, by his award dated 07.10.1998, awarded a sum of Rs.103.94p per cent as compensation. Aggrieved by the award, the land owners preferred two appeals in L.A.C.M.A.Nos.1 and 2 of 1999. The land owners sought for enhancement relying upon a sale deed dated 30.11.1998, under which, the land was sold at Rs.6.50 per sq. ft. The said document was rejected by the appellate Court on the ground that the said sale deed is after the issuance of 4(i) Notification. The Appellate Court, however, relied upon a sale deed dated 28.10.1997, under which, 2400 sq. ft. of land was sold for Rs.4 per sq. ft. and arrived at the compensation, on the basis of the said sale deed, at Rs.1,744/- per cent and after deducting Rs.44/- towards developmental charges, awarded the compensation of Rs.1700/- per cent. Aggrieved by the enhancement, the Government is on revision.

2. I have heard Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the Government and Mr.G.Aravinthan, learned counsel appearing for the respondents/land owners.

3. The total extent of land acquired is 4.19 acres, out of which, an extent of 12.35 cents belongs to the respondents in CRP (MD)No.1426 of 2014 and the remaining extent of 4 acres and 7 cents belongs to the respondents in CRP(MD)No.1427 of 2014.

4. Mr.V.R.Shanmuganathan, learned Special Government Pleader would vehemently contend that having taken a sale deed, which



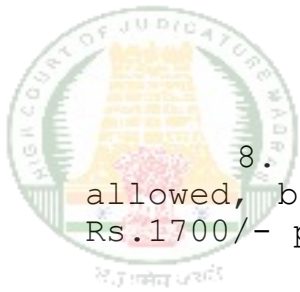
conveys an extent about 5 ½ cents, as the basis for fixing the market value of the land, the Appellate Court erred in deducting only a meagre sum of Rs.44/- towards developmental charges. According to him, the land acquired is of a larger extent, namely, 4 acres 19 cents and therefore, the Appellate Court must have adopted a reasonable deduction. He would also rely upon certain Judgments of the Hon'ble Apex Court as well as this Court, wherein, the deduction for the purpose of development has been fixed uniformly at 30%.

5. Mr.Aravindan, learned counsel appearing for the respondents would however contend that the area acquired is not quite larger and the Land Acquisition Officer has admitted that these lands are situate abutting the road and they are fit for being used as house sites. The Appellate Court also referred to the above evidence of the Land Acquisition Officer.

6. In any event, when a larger extent of land measuring 4 acres is acquired for the purpose of housing, a major portion of it will have to be reserved for roads and other open spaces in terms of Development Control Regulations. Therefore, there has to be some deduction for developmental charges, when larger extent of land is acquired for the purpose of housing. Even if the lands are developed by the owners, they will have to necessarily set apart certain lands for roads and other public utility services. Therefore, there will have to be a deduction which has been fixed at 30% by the Hon'ble Supreme Court as well as this Court in various decisions dealing with the fixation of compensation under Land Acquisition Act 1894. The same can be relied upon as a safe guide for the purpose of determining the value of land acquired under the Act 31/1978 also. In view of the same, the value of land acquired in these Civil Revision Petitions is fixed as under:

The cost of land under document dated 28.10.1997 works out Rs. 4 per sq. feet. Therefore, the cost of 1 cent of land would be Rs.1744/-. Adopting deduction of 30%, the value of per cent of land is fixed at Rs.1220.80 and is rounded off Rs.1221/- per sq. ft.

7. The learned counsel for the respondents would rely upon the Judgment of this Court in Second Appeal (MD)No.267 of 2017, wherein, this Court has upheld the award of Rs.1,700/- per cent for the lands in Survey No.772/7A of Gurunathanaickanur Village, which were acquired under 4(i) Notification dated 15.12.1997. The appellate Court in the said case had relied upon the very same sale deed dated 28.10.1997 and fixed the compensation at Rs.1700/- per cent, which was upheld by this Court. But, unfortunately, the question of deduction was not considered by this Court while disposing of second appeal in S.A.(MD)No.267 of 2017. Therefore, I do not think that the said Judgment would operate as binding precedent.



8. Accordingly, both the Civil Revision Petitions are allowed, by modifying the award and reducing the compensation from Rs.1700/- per sq. ft. to Rs.1221/- per sq. ft

9. It is made clear that the claimants will be entitled to all other statutory benefits in terms solatium and interest as per the provisions of the Act. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

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To

1. The Principal Subordinate Court,
Dindigul.

2. The Section Officer,V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+2 CC to M/s.G.ARAVINTHAN, Advocate (SR-8565[F] dated 03/03/2021)

C.R.P. (NPD) (MD)Nos.1426 and 1427 of 2014

03.03.2021

NA (CO)

TR(25.03.2021) 4P 6C