



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S. (MD)No.59 of 2018

WEB COPY

1.P.S.A.S.Seenivasan Chettiar
2.P.S.A.S.Rajkumar
3.P.S.A.S.Sainath

... Appellants/
Claimants No.1 to 3

Vs.

1.The Special Tahsildar
Adhidravidar Welfare Scheme Unit-II
Madurai - 20.

...Respondent/Petitioner

2.Arumugam
3.Palaniyandi
4.Ammaiyappan
5.Arumugamudaliar
6.Vellaichamy Servai
7.K.M.Ammaiyappan
8.K.A.Karalan
K.A.Shanmugam (died)
9.S.Pakialakshmi
10.S.Ramanan
11.S.Ragupathi
12.S.Devasena
13.Chellamuthuramalingam

... Respondents

PRAYER: Appeal Suit filed under Section 96 of C.P.C. against the judgment and decree in L.A.O.P.No.16 of 2008, on the file of the VI Additional District Court, Madurai, dated 04.07.2017.

For Appellants : Mr.I.Saliyakhan

For Respondents : Mr.J.Gunaseelan Muthiah,
Addl. Govt. Pleader for R1
Mr.N.Vallinayagam for R8 to R12
R2 to R7 and R13-Exparte

JUDGMENT

This Appeal Suit is filed against the order of the Tribunal under Section 30 reference of the 'Land Acquisition Act, 1984' (hereinafter referred to as 'the Act').

2. The brief facts leading to the filing of this Appeal Suit

<https://hservices.ecourts.gov.in/hservices/>

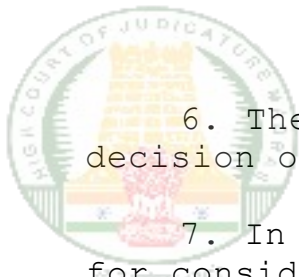


An extent of 0.46 ares in Survey No.103/3A, situate in Kulamangalam I Bit Village, Utkadai, Kayampatti Village, Madurai were acquired for the purpose of issuing house sites patta to the poor Adhidraavidars. The Land Acquisition Officer fixed the compensation at the rate of Rs.700/- (Rupees Seven Hundered only) per cent. As there were some disputes with regard to the entitlement by the claimants, the matter was referred under Section 30 of the Act.

3. The respondents 1 to 3 in the LAOP are claiming ancestral right from one T.S.Subramanian Chettiyar and the respondents 10 (1), 10(2), 10(2)(1), 10(2)(2), 10(2)(3) and 10(2)(4) are claiming right over 28 cents in the acquired lands. The Land Acquisition Tribunal, after analysing the evidence adduced by the authorities, held that the respondents 10(1), 10(2), 10(2)(1), 10(2)(2), 10(2)(3) and 10(2)(4) together entitled to 28 cents in the acquired lands, however, directed the respondents 1 to 3 to establish their title before the Civil Court. As against which, the present Appeal Suit is filed.

4. The learned counsel appearing for the appellants submitted that they are not claiming any right over 28 cents declared in favour of the respondents 10(1), 10(2), 10(2)(1), 10(2)(2), 10(2)(3) and 10(2)(4) and they have claimed only for the remaining extent of the lands acquired. The Land Acquisition Tribunal has negatived the claim mainly on the ground that no title deeds have been filed. It is the contention the learned counsel appearing for the appellants that the property devolved on the appellants ancestrally and was held ancestrally from time immemorial. Therefore, the question of producing any title deeds did not arise at all, in this case. The evidence of the Village Administrative Officer viz., P.W.7 clearly shows that the name of the appellants were found place in the revenue records and all the other revenue records and 'A' register clearly indicates that the name of the predecessor was found place in the above records and there were no entries made more than 30 years, the other respondents whose names also found in the revenue records were not even chosen to claim any right over the property. Hence, it is the contention of the learned counsel appearing for the appellants that the Land Acquisition Tribunal ought to have declared the remaining 82 cents in favour of the appellants and hence, prays for allowing of the Appeal Suit.

5. The learned counsel appearing for the respondents 8 to 12 submitted that in respect of the remaining 82 cents, they have not claimed any right and they have established their right only in respect of 28 cents.



6. The learned Government Advocate has left the matter to the decision of the Court.

7. In the light of the above submissions, now the points arise for consideration in the Appeal Suit are as follows:

1. Whether the appellants have any title to the property to claim compensation?
2. Whether the right would be non-suited merely on the basis of non production of title deeds?
3. To what other reliefs, the appellants are entitled to?

8. It is an admitted fact that 0.46.0 ares in Survey No.103/3A in Kulamangalam I Bit Village, Utkadai, Kayampatti Village, Madurai were acquired for the purpose of issuance of house patta to the poor Adhidraavidars. The Land Acquisition Officer has found that some other names were also found place in the revenue records and referred the matter to the Court under Section 30 of the Act. Before the Land Acquisition Tribunal, though the respondents 1 to 11 were made as a parties, the respondents 1 to 3 and respondents 10(1), 10(2), 10(2)(1), 10(2)(2), 10(2)(3) and 10(2)(4) alone claimed right over the acquired lands. Though the respondents 4 to 7 are arrived at parties, they have not made any claim over the acquired lands and they remained ex-parte even before the Land Acquisition Tribunal. Respondents 10(1), 10(2), 10(2)(1), 10(2)(2), 10(2)(3) and 10(2)(4) have established their right to 28 cents, for which also the respondents 1 to 3 viz., appellants did not lay any claim before this Court. The Land Acquisition Tribunal has non-suited the appellants mainly on the ground that the title deeds have not been filed. Though the name of the father of the appellants is very much found place in A-Register-Ex.C9, Chitta-Ex.C10 and Adangal-Ex.C5, they have been non-suited merely on the ground that the title deeds have not been produced. The specific contention of the appellants is that the property ancestrally devolved on them and the same has not been considered by the Tribunal.

9. In such view of the matter, this Court is of the view that when the properties held by ancestors of the appellants from time immemorial and the properties are devolved on the legal heirs and mere non-production of any title deeds, would not be a reason to non-suit the appellants from claiming any compensation for the lands acquired by the Government. The lands were devolved ancestrally and the Adangal-Ex.C5 also indicates the same and evidence of P.W.7 also shows that there were no entries made for more than 30 years. Further, when the others have not made any objection or claim over the remaining extent of 82 cents, the continuous period of more than 30 years, established the possession of the appellants.



10. In such view of the matter, the Land Acquisition Tribunal negating the claim of the appellants is hereby set aside. Accordingly, the appellants are entitled to 80 cents in Survey No.103/3A, Kulamangalam I Bit Village, Utkadai, Kayampatti Village, Madurai.

11. Accordingly, this Appeal Suit is allowed. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The VI Additional District Judge
Madurai.

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The Section Officer-2 copies
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to SPL GP (SR-7202[F] dated 25/02/2021)

+1 CC to Mr.N.VALLINAYAGAM, Advocate (SR-7303[F] dated 25/02/2021)

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