



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.07.2021

PRONOUNCED ON : 15.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

WEB COPY

SA(MD).No.368 of 2015

MD(MD)No.2 of 2015

(Through Video Conferencing)

The Special Tahsildar, Adi Dravidar Welfare
Nilakkottai, Dindigul District.

... Appellant/ Respondent/ Referring officer

Vs

G.Murugesan

... Respondent / Appellant/ Claimant

Prayer:- This Second Appeal is filed, under Section 100 of CPC, against the judgement and decree, dated, 23.09.2011, passed in LACMA.No.9 of 2009, by the Principal Subordinate Judge, Didigul, modifying the award, dated 24.03.2004, made in No.5/2003-2004, by the Special Tahsildar (ADW), Nilakottai.

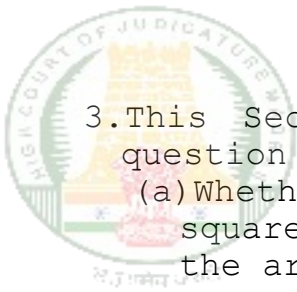
For Appellant : Mr.A.Baskaran, GA

For Respondent : Mr.G.Gomathi Sankar

JUDGEMENT

1.This Second Appeal has been filed, against the judgement and decree, dated, 23.09.2011, passed in LACMA.No.9 of 2009, by the Principal Subordinate Judge, Didigul, modifying the award, dated 24.03.2004, made in No.5/2003-2004, by the Special Tahsildar (ADW), Nilakottai.

2.The facts, leading to filing of this Second Appeal are that the lands to an extent of 0.20.0 hectares in S.No.510/10, in Sevugampatti Village, belonged to the Respondent, was acquired for the Adi Dravidar Welfare for construction of Boys Hostel, in 2004. The Appellant had passed the impugned award, fixing the compensation at Rs.380/- per cent. In the appeal filed, before the court below, Ex.P1 to Ex.P3 were marked and PW.1 was examined on the side of the Respondent and Ex.R1 to Ex.R3 were marked and RW.1 was examined on the side of the Appellant. The court below had modified the award, arriving at the compensation at Rs.33/- sq.ft along with solatium of 15% and 6% interest p.a. as against the claim of Rs.30,00,000/- per acre along with 15% solatium. Aggrieved over the same, this Second Appeal has been filed.



3.This Second Appeal was admitted, on the following substantial question of law:-

(a)Whether the Tribunal is justified in taking the valuation on square feet basis when it is made out that the property sold in the area is by taking into account the valuation per cent?

4.This Court heard the submissions of the learned counsel on either side.

5.The learned counsel for the Appellant has submitted that the Appellant, taking into account the transactions of the year 2003 and 2004, had rightly fixed the compensation at Rs.380/- per cent, but the court below erred in arriving at the compensation at Rs.33/- per sq.ft. and in arriving at 1/3rd deduction towards development charges, which is higher and hence, the same needs interference.

6.The learned counsel for the Respondent would submit that since the acquired lands situated adjacent to the house site plots and considering the the documents in a proper and perspective manner, the court below had rightly arrived at the compensation at Rs.33/- per sq.ft., which is fair and proper and hence, it need not be interfered with.

7.This Court considered the submissions of the learned counsel on either side and also perused the materials available on record.

8.The acquired lands to an extent of 0.20.0 hectares is comprised in S.No.510/10, of Sevugampatti Village. By the impugned award, dated 24.03.2004, the said lands were acquired for the purpose of constructing Boys Hostel for the purpose of Adi Dravidar Welfare and for arriving at the compensation, the Land Acquisition Officer had relied on as many as 19 documents for the period from 10.02.2003 to 09.02.2004, particularly relying on Doc.S.No.14. However, the court below had fixed the compensation at Rs.33/- per sq.ft, which according to the Appellant is on the higher side. According to the Respondent, since the acquired land is adjacent to the house site plots, the compensation awarded is on the lower side.

9.As seen from Ex.P1 to Ex.P3, the other properties of the Respondent adjacent to the acquired lands were sold for Rs.10/- sq.ft., Rs.20/- sq.ft., and Rs.50/- sq.ft. respectively in 2000, 2001 and 2002 respectively. However, since Ex.P1 to Ex.P3 were of the years prior to more than one year from the date of acquisition, the Land Acquisition Officer did not take into consideration the said documents, which in the opinion of this Court, is not proper, since the price fluctuation was not considered.



S.No.510. It is seen from the said documents that the acquired lands is abutting the road and S.No.509 is located adjacent to the acquired land. The lands in S.No.497 adjacent to the acquired land were converted into house plots and the distance between the said two lands is 30 ft. only. In between the acquired lands and S.No.497, there is a road. However, the data lands selected for arriving at the compensation by the Land Acquisition Officer is very far from the acquired lands and it is not proper. Hence, considering the price fluctuation and the locality and the above said evidence, it was rightly thought it fit by the court below to fix the compensation "per sq.ft." instead of "per cent" for the acquired lands and after deducting 1/3rd towards development charges, a sum of Rs.33/- per sq.ft. was fixed by the court below, along with solatium at 15% and 6% interest p.a.. The said compensation, in the opinion of this Court, is just and proper and need not be interfered with, since the same were based on valid evidence. Accordingly, the substantial question of law is answered against the Appellant.

11.In fine, this Second Appeal is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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To

1.The Principal Subordinate Judge, Didigul.

2.The Special Tahsildar (ADW), Nilakottai.

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+1 CC to M/s.SPL GP (SR-39024[F], SR-39243[F] dated 16/12/2021)

+1 CC to M/s.G.GOMATHISANKAR, Advocate (SR-38919[F] dated 15/12/2021)

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RD(21.01.2022) 3P 7C