



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.77 of 2017

Srinivasan ...Appellant/2nd Petitioner

Vs.

1.Senthamilselvi ..1st respondent/1st petitioner

2.Special Tahsildar (Land Acquisition),
Air Force Station,
Thanjavur. ..2nd Respondent/referring officer

3.The Defence Estate Officer,
Madras Circle,
306, Anna Salai,
Teynampet,
Chennai. ..3rd Respondent/Beneficial
Authority

PRAYER: This Appeal Suit is filed under Order 41 rule 1&2 r/w Section 96 of the Civil Procedure Code, against the judgment and decree dated 06.02.2017 passed in L.A.O.P.No.61 of 2002 on the file of the II Additional District and Sessions Judge, Thanjavur.

For Appellant: Mr.M.Saravanan
For R1 : Mr.G.Karnan
For R3 : Mr.K.Victorial Gowri
Assistant Solicitor General
of India
For R2 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

JUDGMENT

Aggrieved over the findings of the Land Acquisition Tribunal rejecting the claim of the appellant for compensation, the present appeal suit came to be filed.

2. For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.



3. The brief facts, leading to the filing of this Appeal Suit, are as follows:-

The suit property was acquired for the purpose of constructing R4 Police Station at Thanjavur. The Land Acquisition Officer has referred this matter under Sections 18 and 30 of the Land Acquisition Act for enhancing the compensation and to ascertain ownership. After contest, the compensation was fixed at Rs.82,000/- per acre by order dated 03.02.2010. Thereafter, separate enquiry was conducted with regard to the claim of the parties in I.A.No.769 of 2015.

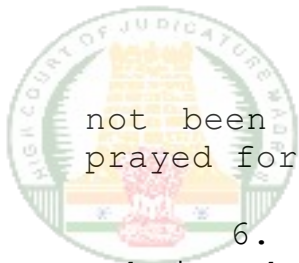
(ii) According to the claimants, the acquired land, originally belonged to one Valliammai Ammal, wife of Naraya Vallundar and the said Valliammai Ammal executed a sale deed on 09.03.1935 in favour of Govindammal and Packiri Vanniyar. After their demise, their son Veeraiya Vanniyar was in possession and enjoyment of the same. The first claimant purchased the property on 17.09.1985 from the said Veeraiya Vanniyar. From the date of purchase, the first claimant was in possession and enjoyment of the same.

(iii) It is the case of the appellant herein / the second claimant before the Tribunal that the land originally belonged to one Velayutham Vallundar, who has executed a settlement deed on 01.08.1908 in favour of one Appu @ Veerasamy Narangiar. The said Veerasamy Narangiar had two wives, namely, Chinnappillai and Gangaammal. The first wife Chinnappillai died issueless. The second wife got one daughter by name Pitchaiammal. The said Pitchaiammal was married to one Narayanasamy Vandayar and got one daughter, namely Senbagavalli. The appellant herein had married the said Senbagavalli. The said Senbagavalli died leaving behind the appellant as only legal heir. Hence, it is the contention that the appellant that he is entitled to compensation. Hence, the suit.

(ii) Before the trial Court, on the side of the plaintiff, C.W.1 to C.W.4 were examined and Exs.C1 to C7 were marked and on the side of the defendants no document was marked and no witness was examined.

4. The trial Court after considering the evidence has non-suited the appellant herein. Hence, the present appeal came to be filed.

5. It is the contention of the appellant that the trial Court having found that both sides have defective title, non-suited the appellant merely on the basis of the patta produced by the first respondent/first claimant. According to the appellant, patta produced by the first respondent is forged one, which has



not been taken into consideration by the trial Court. Hence, prayed for allowing the appeal.

6. The learned counsel appearing for the first respondent submitted that the trial Court has rightly found that the appellant has not proved the relationship with the Shenbagawalli and he is totally not in communication with the title holders. Hence, prayed for dismissal of this appeal.

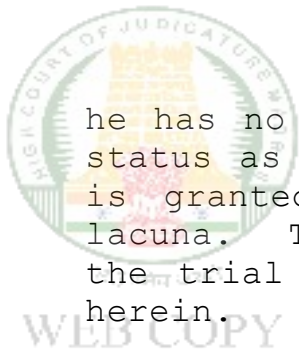
7. Based on the above pleadings, now the points arise for consideration in this appeal, are:-

1) *Whether the first respondent has established title in respect of the acquired land?*

2) *Whether the appellant is entitled to claim compensation for the entire acquired land?*

8. The first respondent traces title to the acquired land through Ex.C1, sale deed dated 17.09.1985. Under Ex.C1, the first respondent appeared to have purchased an extent of 60 cents in Survey No.65B/1. On perusal of Ex.C1, this Court has entertained a serious doubt about the very survey number, namely 65B/1. It appears that the sub division of B/1 appears to have been inserted separately. This fact is further fortified by Ex.C2, dated 09.03.1935, wherein also, the same survey number has been inserted by using thinner. By touching upon the above line, in which the survey number has been indicated, with a bare hand, this Court finds that there was a clever insertion by using some chemicals like thinner or whitener. This aspect has not been considered by the trial Court. In fact the parties have also not seriously disputed the sub division. Though copy of Ex.C2 indicates that there is no correction, to find out whether the inclusion of sub division in Exs.C1 and C2 has been made subsequently or not, certified copies of the same are required. This Court has entertained a serious doubt about the very sub division. Similarly, though the appellant claims title on the basis of Exs.C4 and C5, the relationship between the parties has not been established. Absolutely, there is no evidence available on record to show that he has married one Senbagavalli.

9. Therefore, this Court is of the view that from the available documents, the ownership cannot be decided. The trial Court has not gone into the aspect of usage of chemicals to change the survey number. All these facts have to be proved before the Court below. Accordingly, the judgment of the trial Court is set aside and the matter is remitted back to the trial Court. The plaintiff is at liberty to produce the certified copies of Exs.C1 and C3 to establish that the property was subdivided and she is in possession of the property. It is also made clear that as the present appellant has not established the relationship, he can canvass the same only on the basis of the available documents and



he has no right to produce any fresh document with regard to the status as he is the husband of Senbagawalli. If such permission is granted to the appellant that will impact to fill up the lacuna. Therefore, only on the basis of the available evidence, the trial Court has to decide the relationship of the appellant herein.

10. In the result, this Appeal Suit is allowed and the matter is remitted back to the trial Court. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ta

To

1.The II Additional District and Sessions Judge,
Thanjavur.

2.The Special Tahsildar (Land Acquisition),
Air Force Station, Thanjavur.

3.The Defence Estate Officer,
Madras Circle,
306, Anna Salai,
Teynampet, Chennai.

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

+1 CC to MR.G.KARNAN, Advocate (SR-12102[F] dated 18/03/2021)

+1 CC to MR.R.SUBRAMANIAN, Advocate (SR-12361[F] dated 19/03/2021)

Judgment made in
A.S.(MD)No.77 of 2017
18.03.2021

KM(19.05.2021) 4P 8C

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