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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.01.2022

PRONOUNCED ON : 07.03.2022

CORAM

THE HONOURABLE Mrs.JUSTICE J.NISHA BANU

S.A.No.1744 of 2002

1.The Special Tahsildar
Land Acquisition ADW
Kangayam

2.The State of Tamil Nadu rep.
by its District Collector,
Erode.

... Authorised Officer/
Respondents/Appellants

v.

Periasamy Gounder

Rep.by his

power agent Tmt.Rajalakshmi

... Claimant/Appellant/Respondent

Prayer :- Second Appeal has been filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act (Act 31/1978) read with Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 05.03.2001 made in CMA No.8/1998 on the file of the Sub Court, Dharapuram modifying the award dated 29.01.1998 made in Award NO.22/1995 by the Special Tahsildar, ADW, Kangayam.

For Appellants : Dr.S.Surya
Special Government Pleader(CS)

For Respondent : Mr.S.Saravanan

JUDGMENT

Challenge in this second appeal is to the Judgment and Decree dated 05.03.2001 made in CMA No.8/1998 on the file of the Sub Court, Dharapuram modifying the award dated 29.01.1998 made in Award NO.22/1995 by the Special Tahsildar, ADW, Kangayam.



2. For the sake of convenience, the parties are referred to as per the trial Court. The respondents are the appellants herein.

3. The facts of the case in nutshell are as follows:

The lands comprised in S.F.No.743 measuring an extent of 2.52 acres was proposed to be acquired for the providing house sites to 60 Adi Dravidar families as the existing Adi Dravidar colony had become congested. A notification under Section 4(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 was also published on 28.06.1996 and notices were also sent to the landlords, whose lands are sought to be acquired.

4. On 02.01.1998, enquiry was conducted under Section 5(1) of the said Act by the Village Administrative Officer and Rs.59,000/- per acre was fixed as compensation by the Special Tahsildar (Adi Dravidar Welfare), Kangeyam. However, the power of attorney of the claimant objected to the said award by stating that the award fixed was very low and the award has been fixed by the Special Tahsildar based on the sale in respect of S.No.733, which is far away from the acquired land and she relied on the sale value of other land ie., S.No.709, which has higher sale value. However, award was passed by the Special Tahsildar fixing the compensation of Rs.59,000/- per acre and for the total extent of land, the total compensation would be Rs.1,48,680/- and 15% solatium would be Rs.22,302/- and the total compensation would be Rs.1,70,982/-. However, the claimant received the compensation under dissatisfaction. Challenging the award, the claimant, ie., power of attorney of original claimant, filed CMA No.8 of 1998 before the Sub Court, Dharapuram for enhancement of compensation from Rs.59,000/- to Rs.2,00,000/- per acre.

5. The following substantial questions raised by the trial Court as follows:

Whether the claimant is entitled for enhancement for enhancement of compensation ? If so, to what extent she is entitled for?

6. In order to prove the case of the claimant, PWs.1 and 2 were examined and Exs.A1 to A5 were marked. On the side of the respondents, one witness was examined as D.W.1 and five documents were marked as Exs.B1 to B5.

7. On considering the oral and documentary evidence adduced by the respective parties and the submissions made, the Court



below was pleased to hold that the Special Tahsildar has wrongly considered S.No.733 as model document, while valuing the property of the claimant, which is far from the property in question and accordingly, enhanced the compensation at Rs.2,00,000/- per acre and awarded a total compensation of Rs.5,79,600/-, which was inclusive of 15% solatium amounting to Rs.75,600/-. The trial Court directed the respondent Department to deposit the enhanced award amount, less the amount already received by the claimant, ie., Rs.1,70,982/-, within a period of three months, with interest at the rate of 6%, from the date of acquisition till the date of deposit. Challenging the said judgment and decree, the present appeal is preferred by the respondent Department.

8. At the time of admission of the second appeal, the following substantial questions of law were formulated for consideration:

"1.Whether the Court below was right in not applying the guidelines and principles laid down by the Hon'ble Supreme Court and this Hon'ble Court, while fixing the market value of the lands acquired?

2.Whether the Court below was right in enhancing the value from Rs.59,000/- per acre to Rs.2,00,000/- per acre?

3.Whether the Court below was right in not deducting the developmental charges for the acquired land?"

9. Heard the learned counsel for the appellants/authorised officer and the learned counsel for the respondent/claimant.

10. The learned counsel for the appellants made the following submissions:

The finding rendered by the Court below is contrary to law and need interference. The lower Court failed to see that the sample sale deed was not placed equally with the standard of the lands acquired and the lands covered under Exs.C1 and C2 are of smaller extent. The Court below ought to have seen that the developmental charges are to be deducted for providing roads, playgrounds etc. The Court below ought to have seen that the agricultural lands are acquired lands, which are to be converted for residential purpose. The Court below has wrongly presumed that in order to avoid payment of stamp duty, the value of the



11. The learned counsel for the respondent/claimant made the following submissions:

12. To support the case of the respondent/claimant, the respondent relied on the following judgments:

(ii) Special Tahsildar, Adi Dravidar Welfare, Pollachi and two others v. Kanaswamy Gounder and others in SA No.1771 of 2003 dated 28.03.2016.

14. When the second appeal was taken up for hearing on 13.12.2021, this Court passed the following order:

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



department and a report is yet to be received and hence, she sought for short accommodation.”

15. In my considered view, though a proposal of 10% reduction was given by the respondent, considering the overall circumstances and the market value of the land, the judgment and decree passed by the Court below was just and reasonable. In view of the legal precedents, the decision of the Court below enhancing the compensation is well within the legal norms and the factual matrix laid before it and I do not think that the second appeal deserves any consideration. Accordingly, as per the findings of the lower appellate Court, the respondent/claimant is entitled for the said enhanced amount, without any reduction.

16. In fine, the second appeal is dismissed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

RR
To

The Sub Court,
Dharapuram.

Copy to

1. The Special Tahsildar,
Land Acquisition ADW, Kangeyam.
2. The District Collector,
Erode.
3. The Section Officer,
V.R. Section, High Court, Madras.

+1cc to The Special Government Pleader Sr.15758
+1cc to M/s.S.Saravanan, Advocate Sr.14859

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srg 07/04/2022