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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2022

Coram:

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Appeal Suit No.202 of 2019

1. N.Rajendran, S/o Narayanaswamy Reddiar
2. R.Prathap, S/o N.Rajendran
Vaidegi (died), W/o Rajasekar
3. Kavitha, D/o Rajasekar .. Appellants

Vs.

Revenue Divisional Officer,
Maduranthakam. .. Respondent

Appeal Suit (First Appeal) filed under Order XLI Rule 1 of the Code of Civil Procedure read with Section 96 of the Code of Civil Procedure, against the judgment and decree, dated 06.10.2018 made in L.A.O.P.No.01 of 2011 on the file of the Subordinate Court, Madurantakam.

For appellants : Mr.K.P.Gopalakrishnan

For respondent : Mr.S.Ravichandran,
Addl.G.P. (A.S)

JUDGMENT

(The Judgment of the Court was delivered by T.Raja, J)

This appeal is filed as against the judgment and decree dated 06.10.2018 made in L.A.O.P.No.01 of 2011 on the file of the Subordinate Court, Madurantakam.

2. On the earlier occasion, we had passed a detailed order on 20.12.2021 and for convenience and better appreciation, the same is extracted hereunder:

"A Status Report has been filed today by
Mr.G.Sugumar, Deputy Tahsildar, Cheyyur
Taluk, Madurantakam Division, Chengalpattu



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District, taking a stand that earlier Notification issued under Section 4(1) of the Land Acquisition Act (hereinafter referred to as 'the Act') dated 12.08.1992 was not withdrawn. After the above Notification issued by the Government, since there was no change in the revenue records in respect of the land in question, the same were in the name of the appellants. Thereafter, the Special Tahsildar (Land Acquisition) Unit-3, Mamallapuram to Puducherry Road Scheme, Chengalpattu had issued a Preliminary Notification under Section 3(a) of the National Highways Act for the Survey No.637/2A2 of Mugaiyur Village in the year 2018, but, later on, it was found that the above Survey number had already been acquired. Therefore, on realising the fact that the original 4(1) Notification dated 12.08.1992 was not withdrawn, Section 3(a) of the National Highways Act was given up and the respondent proceeded with the earlier Notification dated 12.08.1992.

2. Learned Government Advocate appearing for the respondent submitted that when the Award was passed on 14.09.1995 fixing Rs.250/- per cent, after the judgment passed in Writ Appeal No.2890 of 2003 dated 17.08.2006, the respondent deposited the award amount before the Sub Court, Madurantagam on 28.04.2008, ignoring Section 3(a) of the National Highways Act. Now, the land is required for broadening the highways. Therefore, the matter may be taken up for disposal, on merits and in accordance with law.

3. Mr.K.P.Gopalakrishnan, learned counsel appearing for the appellants submitted that the appellants, being the poor agriculturists, made to lose a prime land, having an extent of 36 cents covered in S.No.637/2A situated at Mugaiyur Village, Cheyyur Taluk, Kancheepuram, in view of the Notification issued under Section 4(1) on 12.08.1992 followed by Section 6 declaration. When the respondent had deposited the Award amount at the rate of Rs.250/- per cent, the Tahsildar prevented the appellants from



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touching both the land and also the compensation on the ground that 4(1) Notification dated 12.08.1992 was going to be withdrawn.

4. In this regard, it is useful to refer Section 11(A) of the Act, which is given as under:

"11-A. Period within which an Award shall be made: The Collector shall make an Award under Section 11 within a period of two years from the date of the publication of the declaration and if no Award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the Award shall be made within a period of two years from such commencement."

5. A perusal of the above provision, shows that if an Award is not passed by the Collector within two years from the date of publishing the Declaration under Section 6 of the Act, the entire proceedings for the acquisition of the land shall lapse. When it is an admitted case of the respondent that they have not permitted the land owners to receive the land till 28.04.2008, on which date, they have deposited the money allowing the appellants to receive the same, it goes without saying that the entire land acquisition proceedings shall stand lapsed for the reason that when 4(1) notification was issued on 12.08.1992, although Award was passed on 14.09.1995, the respondent did not allow the appellants to receive the money and they themselves admitted that they have deposited the money only on 28.04.2008 at the rate of Rs.250/- per cent. Therefore, we are of the view that the stand taken by the appellants that there was a confusion created by the respondent, could be seen from the Status Report filed today (20.12.2021),



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wherein, we are able to see that the respondent was under the impression that the earlier Notification issued on 12.08.1992 was withdrawn, which was not correct. As a result, the appellants land owners were not paid with the compensation and this could also be seen that the respondent deposited the amount only on 28.04.2008, which is about 16 years from the date of 4(1) Notification. However, the Trial Court, in paragraph 3, considering Ex.C1 - Certified copy of the Sale Deed dated 01.02.1987 executed in favour of one Dhakkammal, Ex.C2 - Certified copy of the Sale Deed dated 06.12.1993, Ex.C3 - Certified copy of the Sale Deed dated 05.02.1990, Ex.C4 - relating to sale of the property in S.No.636/3 with extent of 20 cents and Ex.C5 - Certified copy of the objection letter given by the first claimant to the RDO with regard to the valuation of the property under acquisition, has enhanced the compensation at the rate of Rs.1,000/- per cent with 30% solatium along with interest at the rate of 12% per annum on solatium from the date of taking possession i.e. 16.09.1992. Since the Trial Court has enhanced the compensation on the basis of the market value existed in the year 1992 and the respondent deposited the amount only on 28.04.2008, the respondent is hereby directed to get instructions with regard to the market value prevailed in the year 2008.

6. Post the matter on 11.01.2022 for passing further orders."

3. Today, the learned Additional Government Pleader appearing for the respondent, again went back to the old argument that the appellants are not having locus-standi to bring up this appeal on the ground that they had sold away the land in question to a third party. He further submitted that the market value of the land in question prevailing in the year 2008, can be produced either before this Court or before the lower Court, if the matter is remanded. On a perusal of the same, a final call can be taken in the matter for determining the solatium, interest, costs, etc., and the total compensation.

4. The learned counsel for the appellants also, in reply, submitted that the appellants are senior citizens and the first



appellant is aged about 80 years and the appellants have been fighting out the case for several decades, namely for the past 30 long years. In spite of the fact that the land belonging to the first appellant, has been acquired by the respondent for laying an extension road from Chennai-Cuddalore by way of four way lane, till date, the respondent has not come up with the compensation.

5. When the respondent has issued the Notification under Section 4(1) of the Land Acquisition Act on 12.08.1992, followed by the Declaration under Section 6 on 09.09.1993 and thereafter, an Award was also passed by the District Collector on 14.09.1995 fixing Rs.250/- per cent as compensation and thereafter, the respondent also had deposited the Award amount before the Sub-Court, Madurantakam on 28.04.2008 after the judgment was rendered in Writ Appeal No.2890 of 2003, dated 17.08.2006. These points have already been discussed by us in the earlier order dated 20.12.2021 as extracted supra.

6. Now, the admitted legal position shows that after the Award was passed on 14.09.1995, fixing Rs.250/- per cent as compensation, even that money was not permitted to be withdrawn by the land owner till 2008 on raising a doubt that the land acquisition proceedings have been withdrawn in respect of the land belonging to the appellants. This being the admitted position of both parties, the learned counsel for the appellants mounted pressure on us to either fix the market value of the land as on date or to quash the entire land acquisition proceedings themselves on the premise that no compensation has been paid to the land owner till 28.04.2008, that is, for a long period of 16 long years from the date of Section 4(1) Notification dated 12.08.1992.

7. In reply, the learned Additional Government Pleader appearing for the respondent, justifying the land acquisition proceedings, submitted that the land in question had been acquired for expansion of Chennai-Cuddalore four lane Highway for public purpose and the road/lane has also been laid.

8. Further, the learned Additional Government Pleader appearing for the respondent also submitted that the appellants are not having locus-standi to come to this Court, since they had sold away the land in question and if the amount of compensation is fixed in their favour, the subsequent purchaser may also create some problem and may make further claim. This argument does not carry any merit, the reason being that when once the respondent pays the compensation to the land owner in respect of the land in question covered in the relevant survey number, the question of repayment to the subsequent purchaser will not arise. No such argument can be entertained by the Court also.



9. Therefore, balancing the arguments advanced by both parties, we directed by order dated 20.12.2021 that the compensation for the land acquired, shall be fixed on the basis of the market value prevailing in the year 2008. Again, admittedly, both parties sought permission of the Court to adduce evidence before the L.A.O.P. Court to establish their respective case, after remanding the matter to the Court below.

10. Immediately, the learned counsel for the appellants submitted that when the first appellant is aged about 80 years, under one pretext or the other, the respondent has been protracting the matter and even when the appeal is filed before this Court, the appellants have paid Rs.1,51,620/- as Court Fee, and therefore, the same amount should be paid as costs to the appellants by the respondent, with a further direction to the Court below to dispose of the matter on merits and in accordance with law, within three months.

11. We also find some merits in the above argument of the appellants. When the appellants have come before this Court aggrieved by the lesser compensation fixed by the LAOP Court, without adverting to the market rate prevailing in the year 2008 in respect of the land in question, inasmuch as, after the Award was passed on 14.09.1995 fixing Rs.250/- per cent as compensation, admittedly, the appellants were not permitted to withdraw the money on the premise that the land acquisition proceedings were withdrawn, but subsequently, on verification, it was found that the land acquisition proceedings were not withdrawn, and therefore, the payment of compensation on the land acquired, was unreasonably delayed only on account of the ignorance of the appellants/land owners.

12. Therefore, we direct the respondent to pay the said sum of Rs.1,51,620/- (Rupees one lakh fifty one thousand six hundred and twenty only) (paid as Court fee by the appellants while filing this appeal) within a period of four weeks from the date of receipt of a copy of this judgment.

13. We have gone through the records to find out as to whether the amount of compensation has been justly fixed or not, but no where the Court below had taken care to fix the compensation on the basis of the prevailing market value in the year 2008. Therefore, we are constrained to remand the matter.

14. As the parties claimed that they have sufficient evidence to produce before the LAOP Court with regard to the market value prevailing in the year 2008 in respect of the land in question, we remand the matter back to the LAOP Court (Sub-Court, Madurantakam), giving liberty to both parties to adduce



evidence in respect of the market value of the land in question prevailing in the year 2008.

15. We further direct the LAOP Court to dispose of the matter on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this judgment, keeping in mind that the first appellant is now aged about 80 years and that he should be allowed to see the light of the result of the case.

16. It is needless to mention that the LAOP Court is directed to fix the amount of compensation at the market value prevailing in the year 2008 and thereupon, solatium, interest, costs, etc., shall be fixed accordingly.

17. With the above observations and directions, the appeal is allowed and remanded. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Subordinate Judge,
Madurantakam.
2. The Section Officer,
V.R.Section, High Court, Madras.

+1cc to the Government Pleader, S.R.No.2404

A.S.No.202 of 2019

PVS[col]
NSK 28/01/2022