



A.S. (MD) No.152 of 2013 & Cross.Obj(M)DNo.23 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

**A.S. (MD) No.152 of 2013
and
Cross. Obj(MD)No.23 of 2022**

A.S(MD)No.152 of 2013

The Special Tahsildar (LA)
Adi-Dravidar Welfare
Periyakulam,
Theni District.

... Appellant/Referring Officer

Vs.

Thiru.Manikandan (Died)
2.Mrs.Sornam
3.Mrs.Kaleeswari
4.Sivakumar
5.M.Kohiladevi

... Respondents/
Claimants Nos.2 to 5

PRAYER: Appeal Suit filed under Section 54 of the Land Acquisition Act, to set aside the judgment and decree, dated 20.12.2006 made in L.A.O.P.No. 11 of 1996, on the file of the Land Acquisition Claims Tribunal/Additional District Court-cum-Fast Track No.4, Periyakulam.



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For Appellant : Mr.T.Vilavankothai

For Respondents : Mr.V.Raghavachari

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Thiru.Manikandan (Died)

... 1st Respondent/Claimant

2.Mrs.Sornam

3.Mrs.Kaleeswari

4.Sivakumar

5.M.Kohiladevi

... Cross Objectors/
Respondents 2 to 5

Vs

The Special Tahsildar (LA)

Adi-Dravidar Welfare

Periyakulam,

Theni District.

... Respondent/
Appellant/Referring Officer

PRAYER: Cross Objection filed under Order 41 Rule 22 of Civil Procedure Code, to reverse and set aside the judgment and decree in Cross Appeal against A.S.No.152 of 2013, on the file of this Court in reversing the well considered judgment and decree in L.A.O.P.No.11 of 1996, on the file of the Additional District Judge-cum-Fast Track Court No.4, Periyakulam, dated 20.12.2006 and allow the Cross-Appeal with costs.

For Cross-Objectors: Mr.V.Raghavachari

For Respondent : Mr.T.Vilavankothai



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COMMON JUDGMENT

This Appeal Suit and the Cross-Objection have been preferred challenging the judgment and decree of the learned Additional District Judge-cum-Fast Track Court No.4, Periyakulam, dated 20.12.2006 made in L.A.O.P.No.11 of 1996.

2. The appellant is the respondent and the deceased first respondent is the claimant in L.A.O.P.No.11 of 1996, on the file of the Land Acquisition Claims Tribunal, Additional District Judge-cum-Fast Track Court No.4, Periyakulam. The claimant filed L.A.O.P.No.11 of 1996 against the appellant for fixing the market value of the land at Rs.18.40/- per sq.ft., However, the Tribunal has fixed a sum of Rs.17.10/- per sq.ft., as additional compensation and 30% solatium and as per the market value from the date of 4(1) Notification I.e., on 29.12.1994 till the date of judgment has to pay the sum at 12% and also to deduct the amount already received by the claimant and to pay interest at the rate of 9% for a period of three months



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and for the rest of the period the respondent has to pay interest at the rate of 12% from that date till the date of payment. Aggrieved against the said judgment and decree, the respondent has filed the present appeal.

3.The brief facts of the case is as follows:

L.A.O.P.No.11 of 1996 was filed by the claimant/land owner against the award passed by the Adi Dravidar Welfare, Uthamapalayam Taluk acquiring lands in survey No.1980/1 to the extent of 1.26.5 hectare (3 Acre and 13 cents) situated in Thomas Colony, Uthamapalayam Panchayat, which was acquired for the purpose of constructing house for the Adi Dravidar. The District Collector, Madurai has issued the notification under section 4(1), dated 29.09.1994 and based on the permission granted by the Government, dated 20.12.1994, the District Collector has fixed an award at Rs.99,173/- for 3 acre 13 cents. Since the land owner did not agree to the amount determined by the District Collector, Madurai, the Special Tahsildar (LAADW), Periyakulam referred the matter to the land acquisition Tribunal,



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namely, the Sub Court, Periyakulam, under reference in Roc.No.1319/94 A Dated 17.08.1996. The reference was taken on file in LAOP.No.11 of 1996.

4.Before the reference Court, the claimant claimed a sum of Rs.18.40/- per sq.ft., as the market value for the acquired land and produced the documents to that effect. The Acquiring Officer has not fixed the correct value. As per the document produced by the claimant, the Acquisition Officer ought to have fix a sum of Rs.17/- per sq.ft. It was also stated that nearby the acquired land, a College, Two Government Schools, Teacher Tranining School, Life Insurance Corporation Branch Office, Income Tax Officer, Transport Office, Block Development Office, two Computer Centre, two Cenema Theaters, National highways Office and Public Works are there. This property value is at Rs.18.40/- per sq.ft., The Tribunal on appreciation of various documents, awarded a sum of Rs.17.10/- per sq.ft and has awarded 30% solatium. Aggrieved by the fixing of market value at Rs.17.10/- per sq.ft., the Referring Officer, namely, the Special Tahsildar,



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Adi Dravidar Welfare, (Land Acquisition), Periyakulam, has preferred the present appeal.

5. On the basis of the above pleadings, the learned trial Judge framed the following issues for consideration:

(i) Whether there is sufficient proof to allow the claim of the claimant?

6. In order to substantiate the case, on the side of the claimant, three witnesses were examined as PW1 to P.W.3 and seven documents were marked as Exs.A1 to Ex.A7. On the side of the respondent, no one was examined and one document was marked as Ex.B1.

7. After completing the trial and on hearing of arguments advanced on either side, the learned trial Judge, considered the evidence available on record, decreed the LAOP as stated above.



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8. The learned counsel appearing for the appellant would submit that the lands belongs to the respondent were acquired for construction of houses for Adi Dravidar. The respondent purchased the said land with larger extend on 20.05.1994. Within the period of 4 months from the date of purchase of the land by the respondent 4(1) Notification was issued on 29.09.1994. The character of land is only Manavari Punja that is not fertile land. The extent of the acquired land was 3 acres and 13 cents in Survey No.1980/1. The respondent purchased the said land only for a sum of Rs.42,000/- under Ex.A1, dated 20.05.1994 and the Government has awarded a compensation at Rs.99,173/-. The total extent covered under sale deed is 4 acre 73 cents Punja land. Out of which, they acquired only 3 acres 13 cents i.e., within 4 months from the date of sale deed. The Tribunal has failed to consider the potentiality of the land and also the actual market value as on the date of 4(1) Notification. He would further submit that the exhibits marked by the respondent are only related to the sale of very meagre extent and hence, it could not be taken for fixing market rate for awarding compensation for larger extent of land acquired. The Tribunal



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taken the Survey No.2031/2 which are plotted one. The sale deed document No.1579/94, dated 05.12.1994 is at the extent only 684 sq.ft. But the acquired land in Survey No.1980/1 is an extent of 3 acres and 13 cents. The respondent has not produced any clinching evidence to show that the acquired lands have the potential and Tharam as equivalent to the land covered under sale deed, dated 15.12.1994. The Tribunal awarded the amount for more than 27 times from the original award passed by the appellant herein is without any proper basis. Further, he would submit that the Tribunal not deducted 40% of the total value of the acquired value towards the development charges. Without considering these aspects, the Tribunal awarded compensation from Rs.276/- to 746/- per cent without proper basis to the acquired land, which is not sustainable both in law and on facts of the case. Therefore, the award passed by the Tribunal is liable to be dismissed.

9. Though the respondent has filed the cross-objection with a petition to condone the delay of 3095 days, this Court, on 02.08.2022 has



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passed the following conditional order:-

“Though the appeal in A.S(MD) No.152 of 2013 was filed by the Government in the year 2013, the petitioners have filed this cross-objection with the delay of 3095 days.

2. The matter involved only land acquisition and the petitioners have filed the cross-objection only for enhancement of the compensation awarded by the Land Acquisition Tribunal. Therefore, incase the cross-objection is allowed, the cross-objectors are entitled only for enhancement of compensation from the market rate to be fixed by this Court and they are not entitled to any other benefit like interest etc., Hence, this Civil Miscellaneous Petition is allowed and the Registry is directed to take up the cross-objection on file, if it is otherwise in order.”

10. The learned counsel for the respondent/cross-objectors would submit that the deceased first respondent purchased the properties for forming a layout and sell the properties as house-sites. In and around the acquired properties, house properties and approved layout plots are located



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and nearby the lands, Government schools, colleges and other Government Offices are available. The Acquisition Officer has failed to consider the potentiality of the land and awarded compensation at Rs.276/- per cent, which is very low. At the time of acquisition, the market value is minimum Rs.40/- per sq.ft. Therefore, the Tribunal could have awarded minimum Rs.40/- per sq.ft., The compensation fixed by the Acquisition Officer is very low. Therefore, he has filed the cross-objection. Therefore, the award passed by the Tribunal has to be enhanced and the order passed by the Land Acquisition Officer has to be modified.

11. Heard the learned counsel appearing for the appellant, the learned counsel appearing for the respondent, perused the pleadings, issues framed by the Tribunal, oral and documentary evidence adduced and produced by both parties.

12. Admittedly, the property of the respondent was acquired by the appellant for establishment of Adi Dravidar Colony by constructing the



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house and the extent of land acquired was 3 acre and 13 cents in Survey No. 1980/1. 4(1) Notification was issued on 29.09.1994, then, after the enquiry, the acquisition officer awarded compensation of Rs.99,173/-. Since the cross-objector raised objection regarding quantum of compensation fixed by the appellant and the appellant referred the matter to the Tribunal for fixing the compensation. The Land Acquisition Tribunal, after the enquiry, awarded a sum of Rs.17.40/- per sq.ft., Challenging the said award passed by the Land Acquisition Tribunal, the appellant is before this Court. The respondent has also filed cross-objection for enhancement of compensation.

13. It is not in dispute that the properties belongs to the respondent. He purchased the said property under Ex.A1 sale deed, dated 20.05.1994 which is situated in Survey No.1980/1. 4(1) Notification for was acquisition made on 29.09.1994 and that is within 4 months from the date of purchase. Ex.A1 clearly shows that 4 acres 73 ½ cents consisting of 3 survey No.1980/1,2 & 3. The total sale consideration is only Rs.42,000/-. Out of 4 acres 73 ½ cents, only 3 acres 13 cents covered under the Survey



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No.1980/1 alone was acquired. The respondent purchased the property with larger extent only for a sum of Rs.42,000/- just 4 months prior to the 4(1) Notification. However, considering the other factors, the District Collector, Madurai awarded a sum of Rs.99,173/- for the total extent. Since the claimant made objection, the appellant referred the matter to the Tribunal. The Tribunal without considering all the facts, but only taking into consideration of two documents referred to by the claimants are only after 4(1) Notification, which is between the date of Ex.A1 and the 4(1) Notification i.e., small extent of 640 sq.ft. Though the claimant during the evidence stated that nearby the land, hospitals, schools, Colleges, Government Offices and building are there, during the cross-examination, he has clearly admitted that all are one kilo metre away from the land. Though the claimant/respondent stated that he purchased the property and he formed lay out, but there is no evidence to show that the acquired land have been formed as a layout. His own document in Ex.A1 itself the property is described as a Punja land. Government classification is only a Manavari Punja land. Therefore, it cannot be compared with Ex.A4, Ex.A5



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& Ex.A6. The only relevant documents are Ex.A6 and Ex.A7 the land covered under the said documents are only small extent and the same are also not adjacent to the acquired land. Four months prior to the 4(1) Notification, the said lands were purchased. Four boundaries given in the acquired properties are only a Punja lands. Therefore, the acquired land cannot be valued at sq.ft., rate. The acquisition officer fixed a sum of Rs. 276/- per cent. However, the Tribunal has awarded a sum of Rs.17.10 paise per sq.ft., and the total compensation is Rs.23,35,293/- for an extent of 1.26.5 hectare i.e., 313 cents. However, considering the facts and circumstances of the case and the purpose for which it is acquired and considering the future development, this Court is inclined to fix a sum of Rs.500/- per cent. The Tribunal erroneously fixed sq.ft., rate which is not legally sustainable. Accordingly, compensation is fixed Rs.500/- per cent with consequential benefits.



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14. With the above modification, the Appeal Suit is partly allowed. The cross-objector has no ground to succeed in the cross-objection and therefore, the Cross-Objection is dismissed. No costs.

Index : Yes / No

Speaking Order : Yes / No
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12.08.2022

To

1. The Land Acquisition Claims Tribunal
Additional District Court-cum-
Fast Track No.4, Periyakulam.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.

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