



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

S.A(MD)No.139 of 2013

The Special Tahsildar,
Land Acquisition Officer (ADW),
Paramakudi,
Ramanathapuram District.

... Appellant/Respondent

Vs

Thurairaj Thevar

...Respondents/Appellant.

Prayer : Second Appeal filed under Section 13 of Tamilnadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 against the judgment and decree, dated 15.09.2009 passed in L.A.C.M.A.No.12 of 2001, on the file of the Subordinate Court, Paramakudi.

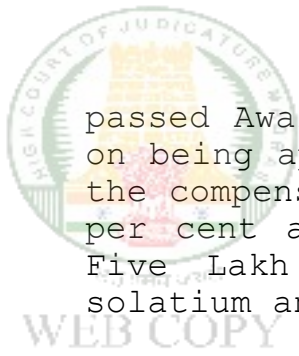
For Appellant	: Mr.G.Suriyananth Additional Government Pleader
For Respondent	: Mr.K.Radhakrishnan

JUDGMENT

This Second Appeal has been filed by the Referring Officer/Special Tahsildar, Adi-Dravidar Welfare, Paramakudi, challenging the judgement and decree, dated 15.09.2009 made in L.A.C.M.A.No.12 of 2001, on the file of the Subordinate Court, Paramakudi.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. The facts, in a nutshell, leading to filing of this Second Appeal suit are that pursuant to the notification dated 20.12.2000 issued under Section 4(1) of the Land Acquisition Act [for short, 'Act'], the punja lands of the respondent / claimant which were situated in Survey No.330 to an extent of 0.22.5 Hectares in Urappuli Village, Paramakudi Taluk, Paramakudi, was acquired for the purpose of providing house sites for the Adi Dravida Arundhathiyar community people residing in the same village. After complying with the formalities, the Land Acquisition Officer had fixed the quantum of compensation of the acquired lands in respect of the respondent / claimant at Rs.28,336/- (Rupees Twenty Eight Thousand Three Hundred and Thirty Six only) and accordingly,



passed Award No.3/2001-2002 dated 05.07.2001, whereas on the matter on being appealed to the Sub Court at the instance of the claimant, the compensation was fixed at Rs.9,000/- (Rupees Nine Thousand only) per cent and in total, it was quantified at Rs.5,04,000/- (Rupees Five Lakh and Four Thousand only) in addition to 15% towards solatium and interest at 6% per annum.

4. Being aggrieved by and dissatisfied with it, the Government preferred the instant Second Appeal on the main ground that the enhancement awarded by the Court based on Ex.P.4 - sale agreement is exorbitantly higher and disproportionate to the actual land value available in the vicinity. Further, the Tribunal has failed to take into account the reasonable deduction towards developmental charges which is necessary to provide house sites to poor Adi Dravidars.

5. It is brought to the notice of this Court by the learned Counsel for the respondents that the issue involved in this Second Appeal is covered by the judgment of this Court, made in S.A.No.93 of 2004, dated 04.04.2018, in respect of the notification issued under Section 4(1) of the Land Acquisition Act, dated 26.04.2000 in respect of the very same survey numbers, but with different sub division numbers, in the same Village, namely, Urappuli Village, Paramakudi Taluk, Paramakudi, wherein the value of the land was fixed at Rs.9,000/- (Rupees Nine Thousand only) per cent and the Court has granted 15% solatium with interest at the rate of 6% per annum and that similar yardstick may also be adopted in this Second Appeal also.

6. In the judgment made in S.A.(MD)No.93 of 2004, dated 04.04.2018, it has been held in paragraph Nos.2 to 5 as follows:-

"2. This Second Appeal is filed by the appellant /Land Acquisition Officer, Special Tahsildar, Adi Diravidar Welfare, Paramkudi as against the Judgment and Decree passed in L.A.C.M.A.No.19 of 2001, on the file of the Sub-Court, Paramakudi, Ramanathapuram District, which in turn was preferred by the land owner, under the provisions of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act. An extent of 1.62.5 Hectares of land was acquired for the purpose of providing house sites patta to the Adi Diravidar and Arunthathiyars. The notification under Section 4(1) of the "Act" was issued on 26.04.2000. The appellant before this Court fixed the market value of the acquired land at Rs.44,000/- per acre. As against the award fixing the compensation, by taking into consideration of the market value at Rs.44,000/- per acre, the land owner / respondent in this appeal has preferred an



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appeal in L.A.C.M.A.No.19 of 2001, on the file of the Sub-Court, Paramkudi. The Appellate Court, fixed the compensation at Rs.9,000/- per cent, relying upon the documents, which were produced by the respondents. Very strangely, the lower Court adopted a method, by which, valuation under three different documents were taken note of and the average market value reflected in three documents was taken. However, after arriving at the market value reflected in the three documents, the lower Court relying upon one of the documents, determined the market value at Rs.9,000/- per cent. While awarding interest, the lower Court has taken into consideration the provisions of Land Acquisition Central Act instead of following the provisions of Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act. It is to be stated that the notification under Section 4(1) of the state Act, in this case, was issued in the year 2000 and the land owners are entitled to solatium only at 15% of compensation fixed, as on the date of notification, under Section 4(1) of State Act. Under the Central Act, the land owners are entitled to 30% of the compensation as solatium. The benefit of Additional interest as contemplated under Section 23(I)(A) of land Acquisition Central Act is not applicable to the land owners, whose lands are acquired under the State Act. Similarly, the interest on the Additional enhanced amount contemplated under the Land Acquisition Central Act are not applicable to the land owners when land is acquired under the State Act. The State Act enables only 6% of interest on the market value and that too, from the date of taking possession of the land.

3. In such circumstances, the land owner namely the contesting respondent in the appeal is put to great hardship by the lapse of time, i.e., due to the pendency of the proceedings before the Court for more than 17 years.

4. In the circumstances, though this Court may, on proper appreciation of evidence, reduce the market value by Rs.2,000/- per cent and the Judgment of the lower Court, enhancing the amount beyond Rs.7,000/- was not proper, in view of the prejudice that is caused to the land owners by the long pendency of these proceedings in view of the draconic change under the State Act as regards interest, which is detailed in the previous



paragraphs, this Court is not interfering with the amount determined as market value.

5. In the result, this Second Appeal is partly allowed and the Judgment and Decree of the lower Court fixing the market value at Rs.9,000/- per cent is confirmed. However, the appellant is liable to pay 15% solatium with interest at 6% from the date of taking possession. No costs. Consequently, the connected Miscellaneous Petition is closed. "

7. Following the said judgment dated 04.04.2018 made in S.A(MD)No.93 of 2004, passed in similar facts and circumstances, the same market value and the solatium which have been fixed by the Tribunal, are liable to be confirmed by this Court.

8. A perusal of the order of the Court below would reveal that after appreciation of evidence and documents relating to the market value, the Tribunal has fixed a sum of Rs.9,000/- (Rupees Nine Thousand only) per cent as the land value and awarded solatium at 15% out of the total value and interest at the rate of 6% per annum from the date of possession or from the date of issuance of 4 (1) notification, in which, this Court does not find any perversity or illegality warranting interference by this Court. Thus, the Second Appeal fails.

9. In the result, the Second Appeal is dismissed and the judgment and decree, dated 15.09.2009 passed in L.A.C.M.A.No.12 of 2001, on the file of the Subordinate Court, Paramakudi, are confirmed. No costs.

Sd/-

Assistant Registrar (Cs-II)

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/ /2022

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Subordinate Court,
Paramakudi.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC to Mr.K.RADHA KRISHNAN, Advocate (SR-3048)

+ 1 CC to M/s.SPL.GP (SR-3098)

S.A(MD) No.139 of 2013
28.01.2022

SVS(CO)
KB(16.03.2022) 5P 6C