



A.S(MD).No.82 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.10.2022

Delivered on : 28.11.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

A.S(MD).No.82 of 2015

The Special Tahsildar,
(Adi Dravidar Welfare),
Thoothukudi.

: Referring Officer/Appellant

Vs.

M.Thangarajan

: Claimant/Respondent

PRAYER:- Appeal Suit has been filed under Section 54 of the Land Acquisition Act, to set aside the decree passed in L.A.O.P.No.108 of 1993, dated 19.08.2002 on the file of the Sub Court, Thoothukudi.

For Appellant : Mr.N.Muthu Vijayan,
Special Government Pleader

For Respondent : Mr.D.Nallathambi



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JUDGMENT

The appeal is directed against the fair and decreetal order passed in L.A.O.P.No.108 of 1993, dated 19.08.2002 on the file of the Sub Court, Thoothukudi.

2.The Tamil Nadu Government had acquired lands in S.Nos. 836/1A2; 836/1A3; 836/1A4; 836/1A5; 836/1B2 in Maramangalam Village, Srivaikuntam Taluk (now Eral Taluk), Thoothukudi District for the purpose of providing house sites to Adi dravidar people through Adi dravidar Welfare Department under the Land Acquisition Act, 1894.

3.It is not in dispute that a notification under Section 4(1) of Land Acquisition Act was issued on 02.12.1989. It is also not in dispute that in the aforesaid survey numbers, an extent of 4.77.50 Hectares of land was acquired.



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4.It is evident from the records that the Land Acquisition Officer, considering the sales statistics and particularly on the basis of the sale deed, dated 09.01.1989 registered at Eral Sub-Registrar Office vide document No.14/89 in S.No.832/2 and the evidence recorded, fixed Rs. 66/- per cent and Rs.6,600/- per acre as compensation for the acquired land.

5. It is pertinent to note that an extent of 1.06 acres of land was sold in S.No.832/2 for Rs.6,996/- vide sale deed dated 09.01.1989.

6.According to the appellant, some of the owners of the acquired land have received their compensation under protest and submitted their claims and hence, the Land Acquisition Officer made reference under Section 18 of the Land Acquisition Act before the Land Acquisition Tribunal (Subordinate Judge) Thoothukudi and the same were taken on file in L.A.O.P.Nos.108 to 120 of 1993 and L.A.O.P.No.74 of 1994. The claimants have claimed that the compensation determined by the Land Acquisition Officer is very low.



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7. During enquiry, the claimants have examined five persons as C.W. 1 to C.W.5 and exhibited 6 documents as Ex.P.1 to Ex.P.8. The appellant/Department has examined its Officer as R.W.1 and exhibited 3 documents as Ex.R.1 to Ex.R.3. The Advocate Commissioner's report has been marked as Ex.C.1 and Ex.C.2.

8. The learned Subordinate Judge/Land Acquisition Tribunal, after conducting joint enquiry in all the above petitions and upon considering the evidence both oral and documentary and also on hearing the arguments of both the sides, has passed the impugned common award, dated 19.08.2002, fixing compensation at Rs.22,000/- per acre. Aggrieved by the said award, the Department has come forward with the appeals, including the present appeal..

9. The learned Special Government Pleader appearing for the appellant would contend that the learned Subordinate Judge has erred in placing much reliance on the report of the Advocate Commissioner in Ex.C.1 and Ex.C.2; that the Land Acquisition Tribunal has failed to consider the purpose, for which, the lands were acquired; that the Tribunal



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erred in not allowing anything as deductions towards the developmental charges when the lands acquired are for providing house sites and the Tribunal without any basis or evidence and only on the basis of surmises and conjunctures, has fixed the compensation at Rs.220/-, which is very much excessive and that therefore, the impugned award is liable to be set aside.

10.The learned counsel for the claimants would submit that the acquired lands are having so many amenities; that the Tribunal comparing the relevant sale statistics has increased the rate of compensation and that since the lands were acquired for constructing the housing colony, there is no scope for making deductions towards developmental charges.

11.As already pointed out, the lands in dispute were acquired for providing house sites for the eligible Adi dravidar people. Admittedly, notification under Section 4(1) of the Land Acquisition Act was made in 02.12.1989. The Land Acquisition Officer by conducting enquiry and taking note of the sales statistics, has fixed the compensation at the rate of Rs.6,600/- per acre.



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12.The Land Acquisition Tribunal by observing that Ex.R.3 document relied on by the Land Acquisition Officer to arrive at compensation did not reflect the reality of the situation and that has resulted in fixing the lesser compensation and by relying on Ex.C.1 and C2 Commissioner's report and plan and also taking note of potential value of the land, has arrived at Rs.220/- per cent (Rs.22,000/- per acre).

13. As rightly contended by the claimants' side, they are the agricultural lands and are having amenities around the lands.

14.Considering the evidence available on record, the compensation fixed by the Tribunal cannot be found fault with and the same is very much just and reasonable.

15.As rightly contended by the learned counsel for the claimants, since the lands were acquired for raising a colony, the question of deducting for developmental charges does not arise at all.



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16.The learned Special Government Pleader would contend that the acquired lands were taken possession on 15.09.1991 itself and house sites pattas were already issued to the eligible Adi dravidar persons; that the Land Acquisition Tribunal, has passed the common order fixing compensation at Rs.6,600/- per acre with 12% interest from the date of publication of preliminary notification till the date of award and solatium of 30% of the reduced amount and interest at 9% from the date of possession for the first one year and at 15% for the next years till payment of compensation.

17.It is not in dispute that the claimants have laid the execution petitions in E.P.Nos.28 to 36 of 2003; E.P.Nos.63 to 67 and 118 of 2003 and that the learned Subordinate Judge, Thoothukudi, has passed an order dated 11.04.2005 for attachment. It is also not in dispute that the present appellant has preferred revisions in CRP(NPD)(MD)Nos.770 to 783 of 2005, challenging the orders passed on 11.04.2005 in the execution petitions. This Court, by observing that during the the pendency of the Civil Revisions Petitions, the award amount claimed in the above



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Execution Petitions have been paid and some of the land owners have also received the amount and as of now, nothing remains to be agitated, dismissed the Civil Revision Petitions as infructuous.

18.It is evident from the records that the Government has filed the appeals with delay condonation petitions and the same were not successful.

19.The learned Special Government Pleader, on instructions, would submit that the Government has already sanctioned Rs.8,11,368/- vide G.O.(D)No.120 Adi dravidar and Welfare (LA2), Department, dated 12.07.2005 and the same was deposited before the Sub Court, Thoothukudi and that the enhanced compensation amount were also received by the land owners. He would further submit that the present appeal alone is pending as of now.

20.It is pertinent to note that the other appeals, challenging the common order dated 19.08.2002 were already disposed of and the order of the Land Acquisition Tribunal has attained finality and that the claimants in those cases have already received the enhanced compensation.



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21.Considering the above, this Court has no hesitation to hold that the present appeal, which is also devoid of merits, is liable to be dismissed. The award of Land Acquisition Tribunal in so far as the respondent/claimant is concerned, is confirmed and the parties are directed to bear their own costs.

28.11.2022

Index : Yes : No
Internet : Yes : No
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To

- 1.The Judge, Sub Court, Thoothukudi.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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