



AS.No.126 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

AS.No.126 of 2004

1.C.Perumal
2.C.Vellaiammal

... Appellants

Vs.

1.Land Acquisition Officer and
Special Tahsildar (L.A)
Mettur Thermal Station Project,
Mettur Dam.

2. Chellappa Gounder

3. Palaniammal

4. Chellappan

5. Krishnan

6. Sundarambal

7. Chinna Irusa Gounder

8. Kolandai Gounder



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9. Vellaiah Gounder

10. Chinna Thambi Gounder @ Manoharan

11. Irusammal

12. Mathaian

13. Mariammal

14. Chandran

15. Manga

16. Secretary,
K.K.238, P.N.Patty,
Veerakkalpudur Agricultural Society,
Mettur.04.

...Respondents

PRAYER:

Appeal Suit is filed under Section 96 of CPC against the judgment and decree dated 03.09.2002 passed in LAOP.No.3 of 1999 on the file of the Sub Judge, Mettur.

For Appellants : Mr.P.Mani

For Respondent 1 : Mr.T.Chandrasekaran
Special Government Pleader

For Respondent 4 to 10 : Mr.S.Doraisamy



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JUDGMENT

The Appeal suit is filed against the judgment and decree dated 03.09.2002 passed in LAOP.No.03/1999 on the file of the Sub-Judge, Mettur.

2. For the sake of convenience, the parties are referred to as per their ranking in the trial Court.

3. The appellants are the claimants and the 1st respondent is the Land Acquisition Officer and the other respondents are also the claimants. The property comprised in S.No.436/1 admeasuring 4.84 acres situated in P.N.Patty Village, Mettur Taluk, Salem District was acquired along with other lands for Mettur Thermal Power Station Project. The compensation in respect of the said property was determined at Rs.1,80,169.70/-. A reference was made under section 30 and 31 (2) of Land Acquisition Act, if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the collector shall deposit the amount of the compensation in the court. Provided that any person



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admitted to be interested may receive such payment under protest as to the sufficiency of the amount. Accordingly, the claimants filed claim petition before the trial court. According to the Appellants herein, they are entitled to have 2/3rd share in the said property and as such they should be paid compensation proportionally to their share. The respondents 2 to 6 herein are claiming that they are entitled to have 1/3rd share in the said property. The respondents 7 to 10 also claim 2/3rd share in the property which was acquired by the first respondent. However, the claim of the appellants was rejected by the trial Court.

4. The learned counsel for the Appellant would submit that their grant father had share in the property. However, the trial court concluded that the respondents 7 to 10 would succeed to the undivided share of appellant's grandfather on the basis of release deed executed by their father. Their father had no rights in the share of their grant father to release or relinquish his right over the subject property.



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5. Heard, the learned counsel appearing on either side.

6. On perusal of the records revealed that though the appellants specifically contended that though their father had no right over the property which was owned by their grant father, their father had executed release deed. Insofar as their share is concerned, admittedly the appellants did not challenge the same and only after acquisition, they are claiming right over the property through their grandfather. Their father had executed release deed in respect of all the properties. Insofar as their share is concerned executed in favour of his father by the release deed dated 23.05.1957, after release deed, their father got married and gave birth to the appellants. In respect of other 1/3rd share of their father is concerned, he sold out the same in favour of his brother Ramasamy even before his marriage. Therefore they have no share in respect of the property which was acquired by the first respondent. Hence, the trial court had rightly dismissed their claim.



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7. As such, this court finds no infirmity or illegality in the judgment and decree passed by the learned trial court. Accordingly, this appeal suit is dismissed and the Judgement and Decree passed in LAOP.No.3 of 1999 on the file of the Sub Judge, Mettur dated 03.09.2002 is confirmed. There shall be no order as to costs.

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Index : Yes / No

Internet : Yes / No

Speaking order /Non-speaking order

gvn

To

The Sub Judge, Mettur.



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