IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

S.A.No.845 of 2010
and M.P.No.1 of 2010

The Special Tahsildar,
Adi Dravidar Welfare, Ulundurpet. ...Appellant

Vs.

M.Suresh Kumar ... Respondent

Prayer : Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for ADW Schemes Act 31/78 r/w. Section 100 of CPC against the decreetal orders and orders dated 31.03.2005 passed in C.M.A. No.16 of 2000 (P.O.P.No.37 of 1999), on the file of the I Additional Sub Court, Villupuram, modifying the award made in Award No.80 of 1997 dated 08.01.1998 passed by the Special Tahsildar, Adi Dravidar Welfare Scheme, Ulundurpet.

For Appellant : Dr.S.Suriya, AGP
For Respondent : Mr.P.Mani

JUDGMENT

The above second appeal is filed by the Special Tahsildar (Land Acquisition Housing Scheme) Villupuram under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 (Tamil Nadu Act 31/78) challenging the decree and judgment of the First Additional Subordinate Judge, Villupuram made in C.M.A.No.16/2000 dated 31.03.2005.

2. Pursuant to the notification dated 24.11.1997 issued under Section 4(1) of the Land Acquisition Act (Act), the lands of the respondents / claimants which were situate in S.No.118/5, 118/6, 118/7, 118/12A, 118/12B & 118/12C of Palangur Village, Thirukovilur Taluk to an extent of 1 acre 88 cents were acquired for construction of houses for Adi Dravidas. Notice was sent to the respondent and the respondent did not appear before the Special Tahsildar (Adi Dravidar Welfare Scheme). Therefore, the Special Tahsildar called for details of the sale transactions with regard to the adjacent lands available with the concerned Registrar.

Along with the respondent land, the lands belonging to some other persons were also acquired for the same purpose of constructing houses for Harijans. It is seen from the orders passed by the Special Tahsildar that some of the owners appeared in person and some of the owners including the present respondent did not appear for enquiry. After conducting an enquiry, under the Act 1978, an award was passed on 08.01.1998 in A/80/97 acquiring the lands of the respondents. The acquiring authority fixed the market value at the rate of 21,636/- per acre. Since the present respondent was aggrieved over the compensation fixed by the Special Tahsildar (Adi Dravidar Welfare Scheme), the matter was referred to the Sub Court, Villupuram. Originally it was registered as P.O.P.No.37/1999. Thereafter, it was numbered as C.M.A.16/2000.

3. The learned First Additional Subordinate Judge, after conducting an enquiry, enhanced the compensation amount at Rs.1,000/- per cent. Apart from that,15% solatium was also granted in favour of the respondent. Thus, the present appellant was directed to pay an award amount of Rs.4,33,643/- with 6% interest after deducting the court fee

payable by the claimant.

4. Now the present second appeal is filed by the Special Tahsildar (Adi Dravidar Welfare Scheme), Villupuram.

5. Heard, Dr.S.Suriya, learned Additional Government Pleader for the appellant and Mr.P.Mani, learned counsel for the respondent.

6. Dr.S.Suriya, learned Additional Government Pleader for the appellant filed the orders passed by a learned Single Judge of this Court in C.R.P.(PD). No.845 of 2004 dated 26.04.2006 in respect of the very same notification issued by the Special Tahsildar (Adi Dravidar Welfare), Ulundurpet in the proceedings No.A/80/1997 wherein it was held thus :

> " *6. Admittedly, the above said lands belonging to the revision petitioner had been acquired by the Government of Tamil Nadu under the said notification (vide) Section 4(1) of Tamil Nadu Act 31/78 for the purpose of providing house sites to Adi Dravidar people. Learned counsel for the revision*

petitioner has pointed out that the evidence of R.W.1 examined on the side of the respondent discloses that the data land in Survey No.97/3 is situated far away from the acquired land of the revision petitioner and that petitioner's land has got facilities for irrigation with well and motor pump set. Further he has also adverted the attention of this Court to the sale deeds Exs.A-1 and A-2 produced by the revision petitioner at the time of the enquiry held by the Land Acquisition Officer, besides his oral evidence.

7. On the contrary, the evidence of the revision petitioner before the court below is to the effect that he sold 6 cents of land under Ex.A-1 dated 24.2.1997 in favour of one Subramanian for Rs.6,000/- and that he sold another land measuring 6 cents under Ex.A-2 sale deed dated 23.9.1997 in favour of one Pichan for Rs.26,000/-. According to him both the lands were sold by him for the purpose of construction of houses and therefore the learned counsel for the revision petitioner has pointed out that even though the sale deeds were executed prior to the said 4(1) notification dated 24.11.1997, the court *below did not adopt the value of even the one mentioned in Ex.A-1 which came into existence on 24.2.1997. Hence, he has strenuously contended that the court below ought to have adopted at least the value of Rs.1,000 /- per cent as per Ex.A-1 to fix the market value of the land acquired by the respondent.*

8. In this context, the learned Government Advocate appearing for the respondent has argued that the value given in the data sale deed in respect of a similarly situate land had been taken into account by the Land Acquisition Officer and therefore the value of Rs.200/- per cent had been fixed by him in respect of the petitioner's lands for the reason that an extent of 1.300 cents in Survey No.97/3 had been sold under registered sale deed dated 6.5.1996 and that the same is similar to that of the acquired land as it is situate nearby having the same quality, fertility, etc. In this context, he has also relied on the decision LAND ACQUISITION OFFICER v. NOOKALA RAJAMALLU (2003 (12) S.C.C. 334) for the position that since the agricultural land had been acquired for the *purpose of providing house sites, by adopting all norms specified under the said Act, the value fixed by the Land Acquisition Officer is just and reasonable.*

9. Similarly, she has also pointed out that since the agricultural land is acquired, deduction at the rate of 53% should be made in respect of development expenses, interest on the outlays for the period of deferment of realisation of the price, profits on ventures, etc., (vide) the ratio laid down in the decision referred supra. She has also pointed out the relevant principle of law laid down therein that in a case where much area is the subject matter of acquisition, the rate at which similar sites are sold cannot be a safe criteria to arrive at the compensation.

10. As has been rightly argued by the learned counsel for the revision petitioner, in the same decision in paragraph (9), the following principles for fixation of market value with reference to comparable sales are reiterated. Therefore, he has urged that if those principles are followed in this case, it would be seen that the value given in Ex.A-1 at the *rate of Rs.1,000/- per cent would be the just and reasonable one for arriving at the just compensation. As has been rightly pointed out by him, the respondent has not produced a copy of the data sale deed as well as the village map before the court below so as to compare the particulars available in the sale deed with reference to the village map and to come to the right conclusion.*

11. As has been pointed out above, R.W.1, the witness examined by the respondent has fairly conceded that the data land is situate far away from the acquired land. But, on the other hand, the land sold under Ex.A-1 is adjacent to the acquired land and therefore this Court is of the considered view that in all respects, the value given in Ex.A-1 at the rate of Rs.1,000/- per cent could be safely adopted as just and reasonable market price to fix the compensation for the acquired land.

12. Learned Government Advocate has pointed out that as per Sections 7 and 12 of the Tamil Nadu Act 31/78, the revision petitioner would be entitled *to only 15% solatium on the total compensation amount and 6% interest thereon from the time of taking possession of the acquired land till the date of payment or deposit of the compensation amount. Therefore this Court finds that the court below is not correct in awarding 30% solatium and the revision petitioner is entitled to only 15% only by way of solatium. Similarly, the award of 12% interest from the date of notification till the date of award is also against the said provisions of law and hence this Court finds that the revision petitioner is not entitled to the award of interest of Rs.1,662/towards such interest. In view of the decision referred to above, since the land is acquired for the purpose of providing house sites, it is reasonable to deduct 50% of the said market value towards development expenses, interest on the outlays for the period of deferment of realisation of price, profits on the venture, etc. and therefore after deducting Rs.500/- towards 50% of such deduction out of Rs.1,000/- per cent fixed as compensation in respect of the acquired land, this Court finds that the revision petitioner will be entitled to interest and solatium at 15% p.a. and interest at 6% respectfully on the total* *compensation amount as mentioned above.*

13. Though the revision petitioner has claimed Rs.30,000/- towards the cost of well, underground pipe-line and other irrigation facilities and Rs.10,000/- towards the trees in the acquired land, the evidence on record would indicate that the standing trees were allowed to be cut and carried away by the revision petitioner and that he has not adduced any independent evidence to show and prove the value regarding the well, underground pipe line, etc. However, since the evidence of R.W.1 discloses that the acquired land had irrigation facilities with motor pump set, this Court is of the view that a sum of Rs.5,000 /- towards such well and underground pipe line as compensation would meet the ends of justice.

14. For the foregoing reasons, the impugned order is modified as indicated above and the revision petition is ordered that the revision petitioner will be entitled to compensation in respect of the acquired land at the rate of Rs.500/- per cent after statutory deductions with 15% solatium on the total *compensation amount and 6% interest thereon till the date of depositor payment of the compensation amount and Rs.5,000/- towards well and underground pipeline existing in the acquired land. However there is no order as to costs."*

The specific contention of the learned Additional Government Pleader for the appellant is that since this Court had already held that the land owners are entitled to get compensation at the rate of Rs.500/- per cent after statutory deductions and with 15% of solatium out of the total compensation amount together with interest at the rate of 6 % interest thereon till the date of deposit / payment of the compensation amount, and no appeal was filed against the said orders, the very same judgment can be adopted in the present case also, so that there would be uniformity while awarding compensation to all the land owners, whose lands were acquired for the purpose of Harijan Welfare Scheme in the same area vide proceedings in No.A/80/1997

7. Per contra, Mr.P.Mani, learned counsel for the respondent

contended that the deduction of 50% towards development of lands may not be sustained, in view of the following decisions :

i. *The Special Tahsildar, Land Acquisition Officer (ADW), Paramakudi vs V.Navanathan (C.R.P.(NPD) (MD) No.367 of 2006 and C.M.P.No.3800 of 2006)*
ii. *The Special Tahsildar, Adi Dravida Welfare, Krishnagiri vs M.Ramachandran and another (S.A.No.137 of 2011 and M.P.No.1 of 2011)*
iii. *The Special Tahsildar, (Land Acquisition) Housing Scheme, Coimbatore vs N.Sundaram and others (A.S.No.158 of 2007)*
iv. *The Special Tahsildar, Land Acquisition Adi Dravidar Welfare, Vellore vs Kuppammal and others (A.S.Nos.406/1999, 68/2000, 980/2001, 1200 & 1201/2001, 1207 & 1208/2001, 237/2002 & 1043/2003)*
v. *Mohinder Singh & Others vs. State of Haryana (SLP (Civil) Nos.5161-5191 of 2001)*

His contention is that when the land is situate closer to the highways and there are no hillocks that need to be leveled there is no need for deduction of 50% towards development charges. In all the cases referred by the learned counsel for the respondent, it was admitted that the lands were either used as house sites or already developed. In such circumstances, it was held that the deduction towards developmental charges is unnecessary.

8. The facts of the present case are totally different and the property is situate in Palangur Village, Thirukovilur Taluk, Villupuram District. Moreover, the lands are acquired for Harijan Welfare Scheme and it is not for any commercial purpose. There is nothing to show on record that the acquired lands in the instant case are already developed or nearer to any highways or it is situate close to any residential area, hospital, etc. In the circumstances, the Award passed by the learned Single Judge of this Court in C.R.P (PD) No. 845 of 2004 is adopted in the present second appeal also.

9. In the result,

i. The Second Appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

ii. The order passed by the learned Single Judge, Villupuram is modified and the respondent will be entitled to compensation in respect of the acquired land at the rate of Rs.500/- per cent after statutory deductions and with 15% solatium on the total compensation amount together with 6% interest thereon till the date of deposit / payment of the compensation amount and Rs.5,000/- towards well and underground pipeline if any in the acquired land.

19.06.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

R. HEMALATHA, J.
mtl

To

1. The I Additional Sub Court, Villupuram.
3. The Section Officer, VR Section, High Court, Madras.

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