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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-02-2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AS No.272 of 2021
And
CMP No.13216 of 2021

The Special Tahsildar (Land Acquisition),
Master Plan Complex,
Namakkal. .. Appellant

vs.

Chinna Gounder (Died),S/o.Marappa Gounder

1.Kumarasamy
2.Kaliammal
3.Lakshmi .. Respondents

PRAYER : This Appeal Suit is filed under Section 54 of the Land Acquisition Act, against the judgment and decree dated 28.02.2020 passed by the learned Principal Sub Judge at Namakkal in LAOP No.138 of 2000.

For Appellant : Mr.T.Chandrasekaran,

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Special Government Pleader (Appeal Suit).

For Respondents : Mr.J.Stalin

J U D G M E N T

The present Appeal Suit has been instituted against the the judgment and decree dated 28.02.2020 passed by the learned Principal Sub Judge at Namakkal in LAOP No.138 of 2000.

2. In respect of the land acquisitions made to the adjacent lands, the Award was passed by the Trial Court, which was challenged by the Special Tahsildar (Land Acquisition), Master Plan Complex, Namakkal in AS Nos.110 to 278 of 2015 and the Hon'ble Division Bench of this Court, by common judgment dated 17.08.2015, modified the compensation under two heads and the operative portion of the same reads as under:-

> *"22. In the cases on hand, as we have pointed out earlier, all the lands together with the building, standing crops, trees, etc. in two villages have been*

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acquired in entirety by the Government and that too, by invoking the emergency clause, for the purpose of construction of a Master Plan Complex for the newly developed District of Namakkal. Therefore, this is not merely a case of acquisition of some land in some village for a public purpose. This is a case where the acquisition has resulted in the displacement of the residents of two villages, for the purpose of formation of a Master Plan Complex. After the acquisition, the new District has already been formed and Namakkal has actually become a Municipal town. The land acquired from the residents are today part of a Municipal town limits, though the land owners themselves are not part of a Municipal town. Therefore, we are of the considered view that the learned counsel for the respondents was right in drawing our attention to paragraphs 5 to 8 of the Statement of Objects and Reasons for the Land Acquisition, Rehabilitation and Resettlement Bill, 2011, which read as follows:

> *"5. It is now proposed to have a unified legislation dealing with*

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acquisition of land, provide for just and fair compensation and make adequate provisions for rehabilitation and resettlement mechanism for the affected persons and their families. The Bill thus provides for repealing and replacing the Land Acquisition Act, 1894 with broad provisions for adequate rehabilitation and resettlement mechanism for the project affected persons and their families.

6. Provision of public facilities or infrastructure often requires the exercise of powers by the State for acquisition of private property leading to displacement of people, depriving them of their land, livelihood and shelter, restricting their access to traditional resource base and uprooting them from their sociocultural environment. These have traumatic, psychological and socio-cultural

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consequences on the affected population which call for protecting their rights, particularly in case of the weaker sections of the society including members of the Scheduled Castes (SCs), the Scheduled Tribes (STs), marginal farmers and their families.

7. There is an imperative need to recognise rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of affected persons and families. Additional benefits beyond monetary compensation have to be provided to families affected adversely by involuntary displacement. The plight of those who do not have rights over the land on which they are critically dependent for their subsistence is even worse. This calls for a broader concerted effort on the part of the

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planners to include in the displacement, rehabilitation and resettlement process framework, not only for those who directly lose their land and other assets but also for all those who are affected by such acquisition. The displacement process often poses problems that make it difficult for the affected persons to continue their traditional livelihood activities after resettlement. This requires a careful assessment of the economic disadvantages and the social impact arising out of displacement. There must also be holistic effort aimed at improving the all-round living standards of the affected persons and families.

8. A National Policy on Resettlement and Rehabilitation for Project Affected Families was formulated in 2003, which came into

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force with effect from February, 2004. Experience gained in implementation of this policy indicates that there are many issues addressed by the policy which need to be reviewed. There should be a clear perception, through a careful quantification of the costs and benefits that will accrue to society at large, of the desirability and justifiability of each project. The adverse impact on affected families-economic, environmental, social and cultural-must be assessed in participatory and transparent manner. A national rehabilitation and resettlement framework thus needs to apply to all projects where involuntary displacement takes place."

23. In Nelson Fernandes vs. Special Land Acquisition Officer [(2007) 9 SCC 447], the Supreme Court held that the purpose of acquisition is a relevant factor to decide whether and to what

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extent deduction towards development charges is permissible. In that case, the land was acquired for the construction of a new broad guage line for Konkan Railways. Therefore, the Court held that the question of development would not arise.

24. The cases on hand, belong to that category where there is no chance for any development charges, to be deducted in view of the fact that two villages in entirety have been acquired. Nevertheless, the Tribunal has not taken Rs.39/- per sq.ft., which we have arrived at on the basis of Exx.C1 and C2, but has awarded only Rs.35/- per sq.ft. for the lands situate within 500 meters and fixed Rs.26/- per sq.ft. for the lands located beyond 500 meters. Therefore, we are of the considered view that the judgment of the Tribunal, enhancing the compensation, need not be interfered with. Accordingly, the appeals are dismissed. No costs. Consequently, connected M.Ps. are closed. The learned Additional Government Pleader is entitled to separate fees."

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3. In view of the above judgment of the Hon'ble Division Bench of this Court, the present Appeal Suit also stands dismissed with the modification as ordered by the Hon'ble Division Bench of this Court in Appeal Suit Nos.110 to 278 of 2015 dated 17.08.2015. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

27-02-2023

Speaking Order/Non-Speaking Order.
Neutral Citation : Yes/No.
Internet : Yes/No.
Index: Yes/No.
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To

1.The Special Tahsildar (Land Acquisition),
Master Plan Complex,
Namakkal.

2.The Principal Sub Judge,
Namakkal.

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S.M.SUBRAMANIAM, J.

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