



S.A.No.687 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2023

CORAM:

**THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI**

**S.A.No.687 of 2022
and
C.M.P.No.13629 of 2022**

Land Acquisition Officer,
The Special Tahsildar (ADW),
Omalur,
Omalur Post & Taluk,
Salem District – 636 455.

...Appellant

Vs.

Balasubramaniam

...Respondent

Prayer: Second Appeal filed under Section 100 of C.P.C., 1908 r/w. Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 against the judgment and decree dated 19.04.2022 made in LAOP CMA No.1 of 2021, on the file of the Sub Court, Omalur, Salem District, modifying the Award No.5/1997-1998 dated 27.01.1998, on the file of the Special Tahsildar (ADW) and Land Acquisition Officer, Salem.

For Appellant : Mr.SP.Karthik, GA

For Respondent : Mr.P.Jagadeesan



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J U D G M E N T

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

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This Second Appeal itself is taken up for disposal, since the issue involved in this appeal is in a very narrow compass. The extent of 4.07 acres of land belonging to the respondent was acquired for the purposes of distribution of house sites patta for Arunthathiars living in Gollar Street. The notification was issued on 24.07.1997 under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 [Act 31 of 1978] (hereinafter referred to as 'TN Act [31 of 1978]'). The award came to be passed on 27.01.1998, granting a compensation of Rs.60,000/- per acre. The total compensation awarded with solatium came to Rs.2,81,974/-. Claiming compensation is too low, the land owner preferred an appeal in LA CMA No.7 of 1998 in the Sub Court Sankari and the same was transferred to Sub Court, Mettur and numbered as LA CMA No.39 of 1999 and upon constitution of Sub Court at Omalur, the said appeal was transferred to Sub Court, Omalur and numbered as LA CMA No.1 of 2021.

2. In the said appeal i.e., LA CMA. No.1 of 2021, the learned trial Judge upon consideration of the documents filed before him, particularly, the sale deeds and release deeds, which were marked as



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Exs.P1 to P7, concluded that the compensation awarded is too low.

The learned trial Judge fixed the market value for the acquired land at Rs.13,864.80/- per cent, after deducting 30% towards development charges determined the compensation at Rs.9,705.36/- per cent. The trial Court granted 30% solatium relying upon the judgment of the Hon'ble Apex Court in the case of **Sundar Vs. Union of India** reported in **2002 (2) LW 39** and interest at 6% per annum from the date of taking possession till the date of deposit. Aggrieved over the same, the State has come up with the above Second Appeal. The only question of law that has been framed in this appeal is as follows:-

"Whether the trial Court is right in awarding 30% solatium when the respondent / claimant is entitled only to 15% solatium as per Section 7(2) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 [Act 31 of 1978]?"

3. We have heard Mr.SP.Karthik, learned Government Advocate for the appellant and Mr.P.Jagadeesan, learned counsel appearing for the respondent.

4. Mr.Karthik, learned Government Advocate would invite our



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attention to the provision of the TN Act [31 of 1978], particularly, Section 7 (2) contend that acquisition being under TN Act 31/1978, the trial Court was not justified in granting solatium at 30%. Section 7 of the TN Act [31 of 1978] reads as follows:

"7. Determination of amount- (1)

The amount payable in respect of any land acquired under this Act shall be the market value of the land on the date of publication of the notice under sub-section (1) of Section 4.

2) In addition to the market value of the land as provided above, the prescribed authority shall, in every case, award a sum of fifteen per centum on such market value as solatium in consideration of the compulsory nature of the acquisition.

3) The prescribed authority shall, after holding an inquiry in the prescribed manner, determine, by order, the amount payable under sub-section (1). A copy of the said order shall be communicated to the owner of such land and every person interested therein."

5. The learned trial Judge has relied upon **Sundar's case** which arises out of the Central Act, namely, The Land Acquisition Act, 1894 [1 of 1894] and therefore, the award granting 30% solatium, cannot be sustained. As per the provisions of the TN Act [31 of 1978], the claimant is only entitled to 15% solatium. In view of the aforesaid provision, the substantial question of law is answered in favour of the appellant and the Second Appeal is allowed to the limited extent. The



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award of the trial Court is modified and the solatium is reduced to 15%. In other respects, the judgment of the Sub Court, Omalur is confirmed. It is stated that the appellant has deposited 50% of the compensation amount. The respondent will be entitled to withdraw the said sum. The appellant is directed to deposit the remaining compensation amount, within a period of four months from today and on such deposit, the respondent / claimant will be entitled to withdraw the same.

6. In the result, the Second Appeal is partly allowed. Consequently, connected Civil Miscellaneous Petition is closed. There shall be no order as to costs.

(R.S.M.,J.) (R.K.M.,J.)
19.07.2023

DP

Internet:Yes
Index:No
Order : Speaking
Neutral Citation : No



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R.SUBRAMANIAN, J.
and
R.KALAIMATHI, J.

DP

To

- 1.The Sub Court,
Omalur, Salem.
- 2.The Land Acquisition Officer,
The Special Tahsildar (ADW),
Omalur,
Omalur Post & Taluk,
Salem District – 636 455.

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