IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.SA.No.95 of 2022

T.R.Mohandoss (Deceased)

1. Jothiramalingam,

2. Suresh Babu

3.Tmt. Anbu Selvi,

4. Tmt. Kalaiselvi,

5. Senthilmurugan

6.Tmt.Chitra,

7.Swapna,

8. Gopikrishnan,

9.K.Babu Reddy,

The appellants 1 to 9 are legal heirs of
Late. T.R.Mohandoss.
All are impleaded as per order in
C.M.P.No.7487/2022 dated 10.06.2022.

...Appellants/Proposed Party/
Proposed Party.

Versus

The Special Tahsildar,
Land Acquisition,
Adi Dravida Welfare
Vellore

...Respondent/Respondent/
Land Acquisition Officer

PRAYER : Civil Miscellaneous Second Appeal has been filed under Order 100 of Civil Procedure Code, against the order passed by the Sub Judge, Vellore in C.M.A.No.8 of 2001 dated 18.07.2001 modifying and fixing the value of the land of the appellant and acquired by the respondent at Rs.875/- per cent by his order stated 30.12.1999.

For Appellants : Mr.B.Sundarapandiyan
For Respondent : Mr.P.Harish
Government Advocate

JUDGMENT

The instant second appeal has been filed by the claimants against the Judgment in C.M.A.No.8 of 2001 dated 18.07.2021 and praying for enhancement of the compensation awarded for the land acquired from the appellants.

2. The brief facts leading to the filing of the above second appeal are as follows:-

(a) One T.R.Mohandoss had 1/3rd share in the extent of 2.12 acres in Survey No.84/1B at Thuthipattu Village, Vellore i.e., he owned 70.67 cents.

(b) The Government sought to acquire the said land and issued a notification under Section 4(1) of the Land Acquisation Act, on 05.11.1998. Thereafter, the respondent/Special Thasildhar, Land Acquisation, Adi Dravida Welfare, Vellore, passed an award granting a compensation of Rs.436 per cent.

(c) Aggrieved by the said award, the said T.R.Mohandoss, preferred an appeal before the Sub-Court, Vellore, in C.M.A.No.8 of 2001 dated: 18.07.2001.

(d) The Sub-Court, Vellore, enhanced the compensation amount by fixing the value of the land at Rs.875/- per cent.

(e) Aggrieved by the quantum of compensation, the said T.R.Mohandoss, preferred the instant second appeal seeking enhancement.

(f) The sole appellant T.R.Mohandass died pending the above appeal and his legal heirs/the appellants, were brought on record vide order in C.M.P.No.7487 of 2002, dated 10.06.2022.

3. The learned counsel for the appellants submitted that the Data Sale Deed relied upon by the respondent was situated 2.5 Kms, away from the acquired land. Therefore, it could not have been the basis for determine compensation. The learned counsel relied upon Ex.A1/Sale Deed, which was executed on 10.11.1999, bearing document No. 1008/1999, for the land which is adjacent to the acquired land wherein the value of the land is shown as Rs.5014/- per cent. The learned counsel therefore submitted that the Special Tahsildar, Land Acquisition, Adi Dravida Welfare Vellore and the Sub-Court, Vellore ought to have fixed the said value while awarding compensation.

4. The learned counsel for the respondent per contra submitted that there were no sales made prior to the acquisition in any nearby land; that the only sale deed for comparison was the data Sale Deed, which show that the value of the property was Rs.436/- per cent. Therefore, the Land Acquisition Officer had correctly fixed the compensation amount; however, the Tribunal

had fixed the value of the land at Rs.875/- per cent, which is reasonable and submitted that the appeal may be dismissed.

5. This Court had admitted the above appeal on the following substantial questions of law.

> (a). Whether the Court below is right in fixing the value of the land at Rs.875/- per cent without appreciating the fact that the land acquired is a house site capable of being plotted out and situated in an important locality of potential value important locality of potential value and that the same will fetch Rs.5014/- and more per cent ?
>
> (b). Whether the Court below is right in rejecting Ex.A1 dated 10.11.1999 as representing a small extent of land in that, the land in question is a house capable of being plotted out?

6. On perusal of the orders passed by the Land Acquisition Officer and the Judgment of the Sub Court, Vellore, it is seen that the property acquired from the appellants is a land measuring 70.67 cents in

Survey No.84/1B, at Sirukalambur Village. The Land Acquisition Officer relied upon the Data Sale Deed wherein, the value of the land in the said village was shown as Rs.436/- per cent. Admittedly the said land is situated nearly 2.5 Kms away from the acquired land. It is also seen that the acquired land is abutting a main road. Ex.A1, relied upon by the appellants is a Sale Deed dated 10.11.1999. This document was registered after the 4(1) notification. That apart, it is seen that Ex.A1, pertains to an extent of 890 Sq.ft. The above facts are not disputed by the respondent.

7. It is settled law that the value mentioned in the Sale Deed registered after the 4(1) notification cannot be the basis to determine compensation. It is also well settled that the Sale Deed for a smaller extent of land cannot be the basis to determine compensation for a larger extent of land. In the instant case, Ex.A1 – Sale Deed, relied upon by the appellants, was executed after the 4 (1) notification, and it pertains to a very small extent of 890 sq.ft. Therefore, the value mentioned in Ex.A1 - Sale Deed, which is Rs.5014/- per cent, cannot be taken into account for fixing the compensation. At the same time, the value shown in the data Sale Deed also cannot be at Rs.436/- per cent, cannot be the basis for determining compensation since

the said land is situated 2.5 kms away from the land that was acquired. Considering all the above facts and the fact that the land which is acquired is larger than the land mentioned in Ex.A1 - Sale Deed and the fact that the land acquired is abutting the main road, after making deductions towards development charges, this Court is of the view that it would be just and reasonable to fix the value at Rs.2000/- per cent. Hence, the substantial questions of law framed by this Court is answered accordingly.

8. Thus the appellants would be entitled to compensation of Rs.1,41,340/-

Rs.2000/- X 70.67 - Rs. 1,41,340/-

9. The appellants would be entitled to Solatium of 15% on the award amount i.e. Rs.1,62,541/- (award amount Rs.-1,41,340/- + Solatium – Rs.21,201/-) together with the interest at the rate of 6% p.a. on the total amount from 25.09.2000, till the date of payment. The respondent is directed to make the payment within a period of eight (8) weeks from the date of receipt of a copy of this Judgment less the amount already deposited by them if any, with proportionate interest.

10. With the above observation, Civil Miscellaneous Second Appeal is partly allowed. No Costs.

27.09.2023

dk
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

Copy to:

1.The Sub Judge,
Vellore

2. The Special Tahsildar,
Land Acquisition,
Adi Dravida Welfare,
Vellore.

SUNDER MOHAN, J

dk

C.M.SA.No.95 of 2022

Dated: 27.09.2023