



A.S.(MD)No.239 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.239 of 2015

Venugopal

...Appellant/5th Claimant

Vs.

1.Special Tahsildar,
South Neighbourhood Schemes,
Unit-I, Madurai.

2.Executive Engineer,
Tamil Nadu Housing Board,
Madurai.

...Respondents

PRAYER: This Appeal Suit is filed under Section 96 of the Civil Procedure Code to set aside the judgment and decree dated 06.04.2009 passed in L.A.O.P.No.91 of 2004 on the file of the III Additional Sub Court, Madurai.

For Appellant : Mr.P.Jegadeesh

For R1 : Mr.D.Sasikumar
Additional Government Pleader

For R2 : Mr.R.Sivakumar
Standing Counsel



WEB COPY



A.S.(MD)No.239 of 2015

JUDGMENT

This appeal is filed challenging the order of the Land Acquisition Tribunal fixing the compensation at the rate of Rs.780/- per cent.

2.For the sake of convenience, the parties are arrayed as per their rank before the trial Court.

3.By notification dated 25.03.1987, vast extent of land in Uchampatti Village was acquired for the purpose of constructing houses for the Tamil Nadu Housing Board. The Land Acquisition Officer had originally fixed a compensation of Rs.550/- per cent. Not satisfying with the said award, reference was made before the Land Acquisition Tribunal by the claimants / land owners seeking enhancement of compensation.

4.Before the Tribunal, on the side of the claimants / land owners C.W.1 was examined and Ex.C1 to Ex.C3 were marked and on the side of the respondent no oral and documentary evidence was marked.



A.S.(MD)No.239 of 2015

5.The Tribunal after considering the evidence had fixed a sum of Rs.870/- per cent. Challenging the same, the present appeal came to be filed.

6.The learned counsel for the appellant would submit that this Court had fixed the compensation at the rate of Rs.1,700/- in respect of the land in the same village acquired by a subsequent notification, dated 28.07.1994 and the same has to be applied to the present case.

7.The learned counsel for the respondent would submit that the Division Bench of this Court by order dated 26.09.2003 in A.S.No.521 of 1999 had fixed the compensation of Rs.890/- and same had been adopted by the Tribunal. Therefore, once the Division Bench had already fixed the compensation, which had attained finality, now the same cannot be enhanced.

8.In the light of the above submission, now the point arises for consideration in this appeal is:

Whether the compensation fixed by the Tribunal is in accordance with law?



A.S.(MD)No.239 of 2015

9.It is an admitted fact that vast extent of land had been acquired in Uchapatti and Thoppur Villages for the purpose of constructing houses for the Tamil Nadu Housing Board. Earlier, several challenges have been made before this Court and the Division Bench of this Court in A.S.No.38 of 2002 had fixed the value of Rs.870/- per cent for the lands acquired at Uchapatti Village and Rs.2,000/- per cent for the lands acquired at Thoppur Village. This matter had attained finality. The claimant in his cross examination before the Tribunal clearly admitted that he is satisfied with the amount fixed by the Division Bench of this Court and on that basis alone, the Tribunal had awarded the said amount.

10.Now, the present appeal had been filed merely on the ground that this Court in one of the cases had awarded the compensation of Rs.1,700/- in A.S.(MD)No.114 of 2017. It is relevant to note that the acquisition in the said case was happened in the year 1994 by a subsequent notification. In the present case, the notification is of the year 1989. Therefore,the same cannot be applied to the present case.

11.Further, reliance has also been made on the order this Court dated 23.03.2021 in C.M.P.(MD)No.592 of 2002 and M.P.(MD)Nos.1 to 3 of 2015 in A.S.No.SR105574 of 2001. The said application was filed to condone the delay in



A.S.(MD)No.239 of 2015

filing the appeal. The said application was dismissed mainly on the ground that the same had been filed against the dead person, from whom only 6 cents of land was acquired in that case.

12.Considering the above, this Court is of the view that when the Division Bench had already fixed the compensation at the rate of Rs.870/- for the lands, which were acquired by the notification dated 25.03.1987 in Uchapatti Village, and the same had also attained finality, now this Court cannot take a different view. Accordingly, the point arose for consideration in this appeal is answered and this Appeal Suit is dismissed. No costs.

12.04.2023

Index : Yes/No

Internet : Yes/No

ta

To

1.The III Additional Sub Court, Madurai.

2.The Special Tahsildar,
South Neighbourhood Schemes,
Unit-I, Madurai.

3.Executive Engineer,
Tamil Nadu Housing Board,
Madurai.



WEB COPY



A.S.(MD)No.239 of 2015

N.SATHISH KUMAR, J.

ta

4.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

Judgment made in
A.S.(MD)No.239 of 2015

12.04.2023