



A.S.(MD)No.80 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.80 of 2015

M.Perumal

... Appellant

Vs.

1.The Special Tahsildar,
Land Acquisition,
Air Force Station Formation,
Revenue Divisional Office,
No.1, Vallam Road,
Thanjavur.

2.The Defence Estate Officer,
Defence Estate Office,
Madras Circle, No.306,
Anna Salai, Tynampet,
Chennai – 18.

3.Maria Maicheal Odayar (Died)

4.Arockiya Mary

5.Savariammal

6.Packiyam
(R4 to R6 are brought on record as LR's of
the deceased R3 vide Court order dated 05.03.2021
made in C.M.P.(MD)Nos.3833 to 3835/2019)

... Respondents



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PRAYER: This Appeal Suit is filed under Section 54 of Land Acquisition Act, 1894 against the judgment and decree dated 10.10.2014 passed by the II Additional District & Sessions Judge, Thanjavur in L.A.O.P.No.11 of 1997.

For Appellant : Mr.G.Karnan
For Respondents : Mr.A.Arun Prasad for R4
Mr.D.Sasikumar,
Addl. Government Pleader for R1
No Appearance for R2, R5, R6

JUDGMENT

The appellant has filed this Appeal Suit challenging the judgment and decree passed by the II Additional District & Sessions Judge, Thanjavur in L.A.O.P.No.11 of 1997, dated 10.10.2014, fixing the compensation for 66 cents in favour of the third respondent herein, though he has claimed the compensation in respect of 33 cents in S.No.77/2A 1.

2. The briefs facts, leading to the filing of this Appeal Suit, are as follows:

The land in S.No.77/2A1 measuring 0.48.5 Hectares of Inayathukanpatti Village of Thanjavur were acquired for the purpose of formation of Air Force Station and the Land Acquisition Officer, fixed the value of compensation at the



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rate of Rs.29,765/- per Hectare. The said compensation was deposited in the Civil Court. The claimants claimed enhancement of compensation. It is to be noted that the third respondent and the appellant joined together filed an application for enhancement of compensation. Third respondent was the second claimant before the II Additional District & Sessions Judge, Thanjavur and he has claimed enhancement of compensation in respect of 33 cents in S.No.77/2 A1. However, while enhancing the compensation, the trial Court held that the second claimant is entitled to compensation for 66 cents instead of 33 cents. Challenging the same, the present appeal came to be filed.

3. The only contention of the learned counsel appearing for the appellant before this Court is that when the third respondent himself claimed compensation for 33 cents in S.No.77/2 A1 and when the title is not in issue, the Tribunal has apportioned the compensation in a different manner, which against the very claim petition and therefore, the order passed by the II Additional District & Sessions Judge, Thanjavur is liable to be set aside.



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4. The learned counsel appearing for the fourth respondent submitted that originally, the compensation has been claimed for 33 cents in S.No.77/2 A1. However, the Tribunal considering the document Ex.C.7 has held that second claimant viz., the third respondent is entitled to compensation for 66 cents.

5. In the light of the above submissions, the only point arise for consideration in this appeal is when the third respondent has restricted his claim only in respect of 33 cents, whether the Tribunal is right in awarding the compensation to the larger extent, which is not claimed by the third respondent?

6. Admittedly, before the Tribunal, the third respondent was examined as C.W.3 and he has admitted that in S.No.77/2 A1, he has claimed only 33 cents and the remaining area are belonged to one Natarajan, Packirisamy and four others. According to the Tribunal, the total extent of 2 acres 99 cents owned by 5 persons. The Tribunal calculated that each of the original owner entitled to 60 cents and therefore, the first claimant would not have purchased 1.2 acres. It is relevant to note that though the shares apportioned by the II Additional District & Sessions Judge, Thanjavur may be correct, the fact remains that the third respondent has purchased the property in the year 1966 and though he would have purchased the



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larger extent, but in reality, he is in possession of 33 cents, which has been clearly admitted by himself. Therefore, merely on the basis of Ex.C7, which was of the year 1996, the Tribunal should not have decided the title in the year 2014. Even if any such purchase was made in the year 1966, when the person are not in possession of the remaining area from the date of purchase, by the operation of Limitation Act right is automatically extinguished. The third respondent himself has admitted in the claim petition before the Tribunal that he is in possession and enjoyment of the property only to the extent of 33 cents and he restricted his claim to that extent only.

7. In such view of the matter, the II Additional District & Sessions Judge, Thanjavur extending the area beyond what has been claimed by the third respondent is not according to law. Accordingly, the above finding alone is set aside. Therefore, the appellant is entitled to compensation to the extent of 1.2 acres and the third respondent is entitled to get the compensation to the extent of 33 cents. In respect of compensation is concerned, since the compensation amount was not challenged by anyone, the compensation amount as awarded by the II Additional District & Sessions Judge, Thanjavur, at the rate of Rs.82,000/- per acre is confirmed.



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8. Accordingly, this Appeal Suit is partly allowed. The appellant is entitled to get the compensation to the extent of 1.2 acres and the third respondent is entitled to get the compensation to the extent of 33 cents at the rate of Rs.82,000/- per acre along with 30% solatium and 12% interest. No costs.

14.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

vsm



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To

- 1.The Special Tahsildar,
Land Acquisition,
Air Force Station Formation,
Revenue Divisional Office,
No.1, Vallam Road,
Thanjavur.
- 2.II Additional District & Sessions Judge,
Thanjavur.
- 3.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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