



C.M.P.No.11311 of 2023
in
A.S.No.239 of 2020

RMT.TEEKAA RAMAN,J.,

This petition is filed to set aside the judgment and decree dated 17.02.2020 made in A.S.No.239 of 2020 on the file of this Court and re-hear the appeal on merits.

2. Heard Mr.M.Muthusamy, learned Government Advocate appearing for the first respondent – The Special Tahsildar (LA), Mr.R.Gokulakrishnan, learned counsel appearing for the petitioners, and Mr.A.Sivaji, learned counsel appearing for the beneficiary of the acquisition (R2&R3) (through Video Conferencing).

3. The learned counsel appearing for the beneficiary of the land acquisition contended that no summons have been issued to them before disposal of the Appeal Suit.

4. On perusal of the order dated 17.02.2020, I find that a common order was passed in A.S.Nos.179, 177, 178, 180, 181, 211, 213, 212, 214, 215, 217, 220 to 225, 229, 228, 230 to 232, 234, 233, 235 to 240 & 250 of 2020 & batch cases.

5. On perusal of the order, I find that the arguments of Mr.J.Balagopal, learned Special Government Pleader (AS) was heard.



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6. On perusal of the Court bundle, it has been found that no summons have been sent to the claimant or land owner. This appeal has been filed under Section 54 of the Land Acquisition Act, to Challenge the judgment and decree passed by the Sub-Court, Ariyalur (Land Acquisition compensation Court) in L.A.O.P.No.110 of 2003 etc, dated 27.04.2017. The L.A.O.Ps. were disposed on various dates.

7. The purpose of the Land Acquisition is to establish a Government cement factory for the public purpose, hence, the Government aims to acquire 300 acres in a specific area.

8. After perusing the order, It was found the Government's appeal against the compensation order has been partly-allowed, setting 25% as the development charges. Accordingly, the Trial Court has confirmed to the enhancement of compensation for Rs.1,200/- per cent of land. However, the appellant - the Government was permitted to deduct development charges of 25% proportionately. Now that the original land owners who lost the lands in the Land Acquisition proceedings have approached this Court in C.M.P for a re-hearing the appeal under Order 41 Rule 21 of C.P.C.

9. I have perused the bundle. In respective A.S., no summons has



been served on the respondents especially the claim petitioners who have lost the land and hence without giving an opportunity for being heard, their claim cannot be determined or modified nor can be reduced and hence for the non service of summons, I am inclined to allow this C.M.P.

10. Accordingly,

(i) This Civil Miscellaneous Petition is allowed, and the order passed on 17.02.2020 in the respective Appeal Suits is set aside.

(ii) All the respective Appeal Suits are re-posted on 11.07.2024 for the 'final hearing' of the Appeal Suits.

(iii) Since vakalath has been filed by the claim petitioner in C.M.P as per the rules in High Court Appellate side, the same may be taken as appearance of the parties before this Court. Necessary memo to be filed.

11. The Registry is directed to print the name of Mr.M.Muthusamy, learned Government Advocate appearing for the appellants in Appeal Suit, Mr.R.Gokula Krishnan, learned counsel appearing for the first respondent and Mr.A.Sivaji, learned counsel appearing for the respondents 2 & 3 in the cause list.

12. Post the Appeal Suit on 11.07.2024 under the caption 'for final disposal'.

20.06.2024



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