



S.A.No. 76 of 2

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN  
AND  
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

**S.A.No. 76 of 2022**

**and**

**C.M.P.Nos. 1802 of 2022 & 19786 of 2023**

The Land Acquisition Officer and  
Special Tahsildar (ADW),  
Having Office at Jawans Building,  
Salem Town, Salem Taluk,  
Now at Collectorate,  
Salem - 636 001.

...Appellants

Vs.

Muthusamy Udayar (died)

1.Ramasamy

2.Muthammal

3.Selvambal

4.Sumathi

...Respondents

**Prayer:** Second Appeal filed under Section 13 of Tamil Nadu Acquisition of Land for Harijan Welfare Scheme, 1978 r/w. Section 100 of the Code of Civil Procedure, against the judgment and decree passed by the I-Additional Sub-Court, Salem in L.A.C.M.A.No.2 of 2001 vide Order dated 05.09.2019  
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modifying the Award No.10/1997-98 dated 13.03.1998 passed by the Land Acquisition Officer and the Special Tahsildhar (ADW), Salem.

For Appellant : Mr.R.Siddharthan, Government Advocate

For Respondents : Mr.K.Raja for Mr.N.Kolandaivelu

### **J U D G M E N T**

(Judgment of the Court was made by R.SUBRAMANIAN, J.)  
Challenge in the appeal is to the judgment of the Sub-Court, Salem made in L.A.C.M.A.No. 2 of 2001.

2. An extent of land measuring about 5.52 acres in Survey No.85, Minnampalli Vilage was acquired by the State for provision of free house sites to Adi Dravidars living in the said village. A notification under 4(1) of Act 31 of 1978 was issued on 13.03.1998, granting a sum of Rs.50,000/- per acre. Terming the compensation as too low, the land owners / respondents herein filed an appeal in L.A.C.M.A.No.2 of 2001 under Section 9 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act, 31 of 1978) before the Sub-Court, Salem.

3.The land owners relied upon the sale deed dated 21.02.1995 in and



by which, an extent of about 1312 and 1/2 Sq.ft., was sold for a sum of Rs.25,000/-. The land owners also filed Ex.P2 to demonstrate that lands in and around the acquired lands situate in Survey Nos.82 & 83 of the said village have been sold as house sites. Therefore, the acquired land should also be valued as house sites for the purpose of determination of compensation.

4.The State, however, resisted the claim contending that the sale deed, Ex.P1 is beyond a period of one year from the date of 4(1) notification and therefore, the same cannot be made the basis for acquisition. This claim was rejected by the Trial Court and it concluded that the land covered by Ex.P1 is situate in the very adjacent survey number and hence, that would offer a sale guide for determination of the value of the acquired lands. The learned Sub-ordinate Judge also took into account the fact that the lands around Survey No.85 were house sites before acquisition.

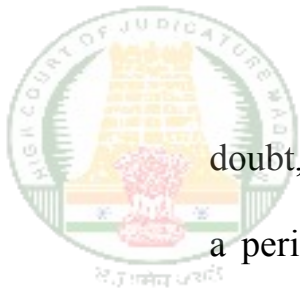
5. The learned Sub-ordinate Judge took that circumstance to conclude that the land in Survey No.85 has potential for being converted into house



sites. The very purpose of the acquisition was also taken into account by the learned Sub-ordinate Judge. On the above conclusions, the learned Sub-ordinate Judge fixed the value of the land at Rs.19/- per Sq.ft., based on Ex.P1 and after deducting 33% towards development charges arrived at the compensation of Rs.12.73/- per Sq.ft. The Court also awarded 15% solatium and 6% interest on the enhanced compensation. A compensation of Rs.1,00,000/- was also awarded for the Well that was situate in the acquired land. Aggrieved by the above enhancement, the State has come up with this appeal.

6. We have heard Mr.R.Siddharthan, learned counsel for the appellant and Mr.K.Raja, learned counsel for the respondents.

7. Mr.R.Siddharthan, learned counsel for the appellant would vehemently contend that the Land Acquisition Officer is required to determine the amount of compensation as on the date of publication of the notice under Sub-Section 1 of Section 4. He would also point out that the Land Acquisition Officer had not taken into account Ex.P1 because it was beyond a period of one year from the publication of 4(1) notification. No



doubt, the Land Acquisition Officer has taken sale deeds which were within a period of one year, anterior to the date of the 4(1) notification and has ignored the others. We do not find a statutory backing for such action of the Land Acquisition Officer.

8. The learned Sub-ordinate Judge has concluded that the fact that Ex.P2 is beyond the period of one year from the date of the notice will not make it unreliable. The learned Sub-ordinate has rendered a specific finding that since the land covered by Ex.P1 is situate next to the acquired land and a perusal of Ex.P2 demonstrates that the lands in the vicinity of the acquired land have been sold as house sites. Therefore, we are unable to fault the Trial Court for having come to the conclusion that Ex.P1 can be taken as a safe guide for fixing the value of the land.

9. The learned Government Advocate appearing for the appellant would contend that the learned Sub-ordinate Judge was not right in granting separate compensation for Well. Though Mr.K.Raja, learned counsel for the



respondents / land owners would contend that even the Land Acquisition Officer has granted separate compensation for the Well and therefore, the learned Sub-ordinate Judge was right in granting separate compensation for the Well. We do not think, we can sustain the grant of separate compensation for the Well in as much as the Hon'ble Supreme Court in *Special Land Acquisition Officer Vs. Virupax Shankar Nadagouda* reported in (1996) 6 SCC 124 held that no separate compensation is allowable for the Well, since compensation is paid for the land occupied by the Well also.

10. In view of the above pronouncement of the Hon'ble Supreme court, we find that grant of compensation of Rs.1,00,000/- for the Well cannot be sustained. The Trial Court has also taken care to deduct 33% towards development charges as Ex.P1, sale deed is for a smaller extent compared to the area of the land acquired. The statutory benefits like solatium and interest have also been awarded in conformity with the provisions of the Act. We therefore, see no reason to interfere with the fixation of the land value as made by the learned Sub-ordinate Judge.



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11. In fine, this Second Appeal is **partly allowed**. The award of compensation of Rs.1,00,000/- for the Well alone is set aside. The award is confirmed with other aspects. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M., J.) (C.K., J.)  
13.11.2024

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Internet: Yes

Index: No

Speaking

Neutral Citation : No

**R.SUBRAMANIAN, J.**  
**and**  
**C.KUMARAPPAN, J.**

KKN

To:-

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1.The I-Additional Sub-Judge,  
Salem.

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