THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2024

CORAM:

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

S.A.No.276 of 2023
and
C.M.P.No.8173 of 2023

1.The Special Tahsildar (ADW)/
Land Acquisition Officer,
Dharmapuri.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.District Adi Dravidar Welfare Officer,
Dharmpauri.

...Appellants

Vs.

Narikuravan @ Chinnasamy

Arumugam (Power of Attorney)

...Respondent

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, 1908 read with Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 praying to set aside the judgment and decree dated 16.10.2019 made in C.M.A.(L.A.)No.68 of 2004 on the file of Principal Sub-Court, Dharmapuri, modifying the Award No.9/ADW/98-99, Na.Ka.No.529/98(A), dated 21.01.1999 on the file of the Special Tahsildar (ADW) and Land Acqusition Officer, Dharmapuri.

For Appellants	:	Mrs.R.Anitha, Special Government Pleader
For Respondent	:	Mr.N.Manokaran

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J U D G M E N T

*(Judgment of the Court was delivered by **R.SUBRAMANIAN, J**.)*

Challenge in this appeal is to the judgment of the Principal Sub-Judge, Dharmapuri made in C.M.A.(L.A.)No.68 of 2004.

2. An extent of about 0.31.5 hectares situate in S.Nos.662/2 and 665/2 of Podur Village, Pennagaram Taluk, Dharmapuri District belonging to the respondent was acquired for the purpose of provision of house sites to Adi Dravida people residing in the said village under the provisions of Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 [Act 31 of

1978]. Notification under Section 4(1) of the said Act was published on 20.08.1998 and an award came to be passed on 21.01.1999. The land acquisition Officer awarded a compensation of Rs.1,23,500/- per hectare. Terming the compensation as too low, the respondent filed C.M.A.(L.A.)No.68 of 2004 under Section 9 of the said Act.

3. Before the Sub-Court, the claimant relied upon the judgment of the very same Court in C.M.A.(L.A.)Nos.8 to 11 of 2004, which related to acquisition of lands for the very same purpose. The 4(1) notification thereat was made on 17.08.1998, wherein the Court had granted a sum of Rs.47.82/- per sq.ft as compensation. The claimant had also produced the judgment of this Court in S.A.Nos.496 to 499 of 2005, wherein, the said judgment in C.M.A.(L.A.)Nos.8 to 11 of 2004 was confirmed by this Court. Apart from relying upon the said judgments, the claimant had also produced other sale deeds, which were prior to the notification under Section 4(1). The sub-Court adopted the said fixation and granted a sum of Rs.47.82/- per sq.ft. as compensation. Aggrieved the State is on appeal.

4. We have heard Mrs.R.Anitha, learned Special Government Pleader appearing for the appellants and Mr.N.Manokaran, learned counsel appearing for the respondent.

5. The learned Special Government Pleader appearing for the appellants would contend that the lands covered by the proceedings in C.M.A.(L.A.)No.8 of 2011 situate in S.Nos.207/1 and 207/2 etc., are situate far away from the acquired lands and the data land that has been chosen by the land acquisition officer is situate in the very next survey field. She would also contend that the deduction has been made only at 25%, which is far below the normal deduction of 1/3rd. She would also rely upon the judgment of the Hon'ble Supreme Court in ***Union of India Vs. Premalatha and others*** reported in **(*2022) 7 SCC 745*** to contend that the deductions for development charges should be at least 40%.

6. Contending contra Mr.N.Manokaran, learned counsel appearing for the respondent/ land owner would submit that the lands subject matter of the proceedings in C.M.A.(L.A.)Nos.8 to 11 of 2004 is also situate within a radius of 0.8 kms. from the acquired lands. He would also draw our attention to the judgment of the Hon'ble Supreme Court in ***Sri Ram M.Vijayalakshmamma Rao Bahadur Ranee of Vuyyur Vs. Collector of Madras,*** reported in ***(1969) 1 MLJ (SC) 45*** and a judgment of the Division Bench of this Court, to which one of us [The Hon'ble Mr.Justice R.Subramaninan], is a party, in ***The Special Tahsildar, Adi Dravida Welfare, Sathyamangalm Vs. Velusamy,*** dated ***23.07.2024*** in ***S.A.No.66 of 2010*** to contend that when several exemplars are produced to show the value of the land in vicinity of the acquired land, the land owner will be entitled to the highest value reflected in those exemplars. Reliance is also placed on the judgment of the Division Bench of this Court in ***The Special Tahsildar (LA), Krishna Water Supply Project Unit-3, Tiruvallur Vs. Rathinareddi*** reported in ***2003-2-L.W.-267*** in support of the said contention.

7. The learned counsel for the respondent would also rely upon the judgment of the Hon'ble Supreme Court in ***Thakarsibhai Devjibhai And Ors. vs Executive Engineer, Gujarat And Anr.*** reported in ***AIR 2001 SC***

2424 to contend that when various extent of lands belonging to several individuals is acquired and pooled together to form a larger extent of land, in deciding the quantum of deduction, the Court must take into account the lands acquired from each of the individuals and not the whole extent.

8. We have considered the rival submissions.

9. The land belonging to the respondent measures about 0.14.0 hectares in S.No.662/2. The total extent of land acquired for the scheme is 2.73.0 hectares. The land acquired from the respondent measures just about 1/10th of the total lands that have been acquired. The 4(1) notification is dated 20.08.1998 and the award is dated 21.01.1999. Therefore, the crucial date would be 20.08.1998. In C.M.A.(L.A.)No.8 of 2011, the land measuring about 12.25 acres situate in S.Nos.207, 208, 214, 215 and 216 of the very same village were acquired for the very same purpose viz., for provision of house sites for Adi Dravidars and 4(1) notification in the said case was made on 17.08.1998, that is, just three days prior to the notification in the present case. Relying upon various exemplar sale deeds that were placed before it, the sub-Court determined the compensation at Rs.47.82/- per Sq.ft., after adopting deduction of 25% towards development charges. This fixation of Rs.47.82/- per Sq.ft. was confirmed by this Court in S.A.Nos.496 to 499 of 2004.

10. We have examined the location of the lands with the help of eye evaluation sketch, which has been marked as Ex.C6/ Ex.R3. Of course, data land that has been taken by the land acquisition officer is situate nearer to the acquired land than the land covered by S.Nos.207, 208, 214 and 216, which were subject matter of acquisition in C.M.A.(L.A.)Nos.8 to 11 of 2004. But, the lands in S.Nos.207, 208, 214 etc., are also situate within the radius of 0.8 kms. from the acquired land and those lands have also been acquired for the very same purpose viz., for providing house sites to Adi Dravida people. The Authorities have found that those lands are most suited for provision of house sites, as in the case on hand.

11. As rightly contended by the learned counsel for the respondent/ land owner the person who is affected by land acquisition or the person whose land is acquired for the public purpose, would be entitled to highest value when several exemplar sale deeds are produced. Therefore, we are unable to fault the learned Sub-Judge for having accepted the valuation fixed in C.M.A.(L.A.)Nos.8 to 11 of 2004.

12. Adverting to the contention of the learned Special Government Pleader on the quantum of deduction, we find that the decision in ***Union of India Vs. Premalatha and others*** (*supra)* turns on a slightly different facts. The total extent of land acquired in the said case was about 46.89 hectares and the exempler sale deed that was relied upon was for an extent of 1200 Sq.ft. Comparing the extent of land acquired with the extent of land covered by the exemplary sale deed, the Hon'ble Supreme Court though it fit to apply a deduction of 40%. In the case on hand, the exempler sale deeds relied upon is for an extent of about 1475 ½ sq.ft, which means it is about 1.5 ares. The lands acquired from the respondent measures about 14 and 17 ares. Comparing the extent, we find that a deduction of 25% is just and reasonable.

13. We therefore do not find any reason to interfere with the judgment of the Principal Sub-Judge. The appeal therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) **(C.K., J.)**
06.11.2024

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Index : No
Internet : Yes
Neutral Citation : No
Speaking order

To

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