



S.A. No.169 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

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and

C.M.P.Nos.3110 of 2019 & 2366 of 2022

1. The District Collector,
Dharmapuri.

2. The Land Acquisition and Special
Tahsildar,
Dharmapuri.

... Appellants

Vs.

K.Viwanathan

.. Respondent

PRAYER : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 26.02.2016 made in LACMA No.16 of 2000 on the file of Sub-Court, Dharmapuri modifying the award No.3/ADW/96-97 in Na.Ka.No.497/95 (A), dated 25.11.1996 on the file of Land Acquisition Officer, Dharmapuri.



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For Appellants : Dr.S.Suriya,
Addl. Govt. Pleader
For Respondent : Mr.D.Shivakumaran

JUDGMENT

The appellants are the respondents in C.M.A.(LA) No.16 of 2000, which was filed challenging the award passed by the Special Tahsildar (Land Acquisition) with the prayer for enhancement of compensation and the same was allowed by enhancing compensation. Against which, they have preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the Claim Petition.

3. Brief facts of the case is as follows:-

The Government of Tamil Nadu announced a Special Scheme for issuance of free house site patta for the downtrodden people belongs to Arunthathiyar and Adi-dravidar community of Koothapadi Village, Dharmapuri Taluk. After receiving the application for the said scheme, the lands comprised in Survey Nos. 123/3, 128/1B, 133/1B, 132/2 measuring a



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total extent of 1.32.5 hectares (3 acres 27 cents) at Koothapadi Village belong to the respondent herein was proposed to be acquired for the scheme of free house site project of the year 2000. Subsequently, his assent was obtained for the land was acquired from the claimant and a 4(1) notification was also issued on 21.12.1995 under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 read with Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Rules, 1979. Thereafter, the project land was categorised as Government Punja Land and the same was published in Dharmapuri District Gazette on 07.03.1996. Thereafter, notice Form-3 under Rule 5(1) of Rules for the award enquiry was published and the same was served on with the claimant through Village Administrative Officer, but he refused. Hence, notice was affixed on the house walls of the claimant. Thereafter, the award was passed on 23.10.1996 by referring the data land and other amenities available in the nearby acquired lands. The claimant received the award amount subject to objections, but acknowledged the compensation of award amount of Rs.64,057/-. Even after receipt of amount, he refused to hand over the land. 4. Challenging the said award, he preferred an appeal in C.M.A.(LA) No.16 of 2000 for enhancement of



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compensation before the Sub-Court, Dharmapuri by raising objections stating that the Special Tahsildar (Land Acquisition) failed to take note of the potentiality of the acquired lands as well as the other developments happened in and around the land. He would further submit that nearly about 2000 houses were situated in Koothapadi village and it is 2 kms. from the Pennagaram Taluk, besides there is a middle school, post office, Government Hospital were situated adjacent to the acquired lands and almost nearby lands were converted into house plots, so it was not a barren land. But, without considering other amenities and developments, the Special Tahsildar awarded only a sum of Rs.64,057/- as compensation, as such, is illegal and the same is liable to be enhanced. 5. Furthermore, to prove the market value of the adjacent lands, he relied the sale deed dated 28.04.1995 marked as Ex.A1 on the side of claimant and also raised objections, but without considering the document relied on by the claimant, the Presiding Officer of the Reference Court held that before issuance of the 4(1) notification, the sale deed relied on by the claimant marked as Ex.A1 shows that an extent of 1837 ½ sq.ft. was sold for the value of Rs.30,000/- and the said land is situated in Grama Natham of Koothapadi, Hogenakal



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and also adjacent to the nearby acquired lands. So also, post office, Government Hospital, school were situated. Considering all these amenities as well as the market value mentioned in Ex.A1 Sale deed, the Reference Court fixed a sum of Rs.7,11,183/- as a market value. Accordingly, the compensation was enhanced totally a sum of Rs.15,36,156/- for the acquired lands to an extent of 2.16 ares and for development charges, 25% was deducted, but awarded with 15% of Solatium with 6% interest. Accordingly, a sum of Rs.16/- per sq.ft. was fixed and after deducting compensation amount of Rs.64,057/-, for the remaining balance amount of Rs.12,35,571/- 6% interest was awarded from the date of acquisition of lands till depositing the amount. Challenging the said findings, this Second Appeal was preferred by the State.

6. The learned counsel for appellants argue that the Reference Court erroneously concludes that the acquired land is house site and in fact, it is an agricultural dry land. Therefore, without granting the development charges, the enhanced award passed by the Reference Court is illegal as well as not valid. By relying the guidelines prescribed in the judgment reported in *AIR 1995 (5) SCC 426*, learned counsel argue that in respect of



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sale deed Ex.A1, it is pertaining to smaller extent of land, which ought not to have been considered by the Reference Court while determining the compensation for the larger extent. On that ground also, he prayed to set aside the findings of the Reference Court. In support of their contentions, they have relied the ratio laid down in the judgment held in ***Civil Appeal Nos.2209-2212 of 1993*** in the case of ***Basavva and others vs. Special Land Acquisition Officer and Ors.***, wherein the Apex Court held as follows:-

“Property – Enhancement of compensation – Section 4(1) of Land Acquisition Act, 1894 – Present appeals filed for enhancement of compensation – Held, sale deed brought by appellants is dependable sale but it is in respect of a small plot of land situated at a distance of more than 1 km. from acquired lands – It has also found that area in which acquired lands are situated was not developed at time of notification issued under Sec.4(1) of Act – It takes years for development in those lands though lands are capable to be used for non-agricultural purpose – High Court has considered all relevant facts and awarded adequate compensation to appellants-claimants – There is no justification for interference in finding recorded by



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High Court or to further increase in compensation – Hence, appeals are dismissed.”

They have also relied the ratio laid down in the authority reported in **2022**

(7) SCC 745 in the case of ***Union of India vs. Premlata and others,***

wherein the Apex Court held as follows :-

“- Land acquired in question a large extent of land (45 ha 89 R) -It was agricultural land not fully developed – Landowner having not filed any exemplar sale deed relating to large pieces of land sold in acres to prove market value of acquired land – Exemplars relied upon by landowner pertain to very small plots/parcels of land and that too, in respect of small plots which were developed and converted to non-agricultural use and distinguishing features noticed in land in sale deeds are not present in acquired land”

7. By way of reply, the learned counsel for respondent/claimant would submit that the entire lands belong to the claimant, an extent of 2.16 acres was acquired for converting into house sites and allotted to Adidravidar community under the scheme of free house site project.



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Accordingly, 4 (1) notification was issued on 22.11.1995, but while granting the award, the enquiry was not properly conducted by the Special Tahsildar. So also, the appellants have awarded a very less compensation without considering the amenities, developments in and around the acquired lands. Therefore, he preferred an appeal in C.M.A. (LA) No.16 of 2000 before the Sub-Court, Dharmapuri and to prove the market value of the property, he produced Ex.A1 Sale deed dated 28.04.1995 much prior to 4(1) notification and the same was rightly appreciated by the Reference Court, which needs no interference by this court. Hence, he prayed to dismiss this Second Appeal.

8. Heard and considered rival submissions made by learned counsel for appellants as well as respondent and perused the materials available on record.

9. Considering both side submissions, it would reveals that admittedly, the land to an extent of 2.16 acres belong to the respondent/claimant was acquired for the purpose of giving free house site



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project for adi-dravidar community and 4(1) notification was issued on 22.12.1995. After due notice, award enquiry was conducted by the Special Tahsildar and award was passed. Accordingly, the respondent/claimant was awarded with a sum of Rs.64,057/-. The said award was received by the claimant under protest. Against which, he preferred an appeal in C.M.A. (LA) No.16 of 2000 and before the Reference Court, he produced Ex.A1 dated 28.04.1995. Admittedly, based on that, market value of the land was considered and compensation was enhanced. Accordingly, a sum of Rs.16/- per sq. ft. was fixed, thereby total compensation enhanced, which comes around Rs.15 lakhs. But, the learned counsel for appellants argue that the alleged sale deed Ex.A1 relied on by the claimant only for a smaller extent of land and the same cannot be considered while fixing the compensation for the larger extent of land pertaining to this case. Admittedly, the adjacent lands in the case on hand comes around 2.16 acres. So also, under Ex.A1 sale deed an extent of land was covered only 1837 ½ sq.ft. Now, the point is to be decided whether Ex.A1 could be considered while fixing the market vale for the larger extent of land? Admittedly, the said sale deed Ex.A1 executed on 28.04.1995, much prior to the 4(1) notification, which was



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effected on 22.11.1995. Furthermore, the land was acquired for free house site project, through which, the Government has decided to convert the project land into house site in order to provide house sites to the downtrodden people. So, the ultimate aim of the Government is to convert the land into house site and not for any industrial purpose. Admittedly, Ex.A1 relied on by the claimant also related to house site. It is an undisputed fact that the land covered in data sale deed relied on by the respondent/claimant is situated nearby to the acquired land. It is also undisputed fact that around the acquired lands, there is a middle school and Government hospital as well as post office and other road and electricity amenities are available. So, if it is converted into house site, it will fetch more value and the other amenities also clearly implied that in future the acquired land could be converted into house site even by the claimant, thereby he would gain more profit than if it is used for agricultural purpose. Therefore, by relying Ex.A1, the Reference Court fixed a sum of Rs.16/- per sq. ft., as such is justifiable one. Therefore, the arguments advanced on the side of appellants that the smaller extent of land covered in Ex.A1 ought not have been considered by the Reference Court by relying the aforesaid



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authorities would not applicable to the facts of the present case. Though the ratio laid down in the referred case is acceptable one, but it is not applicable to the facts of the present case. Therefore, I do not find any irregularity in the award passed by the Reference Court and accordingly, this Second Appeal is dismissed as no merit. The award passed by the Reference Court is confirmed and the time to deposit the balance amount as per the enhanced award passed by the Sub-Court, Dharmapuri in C.M.A. (LA) No. 16 of 2000 is ordered to be complied by the appellants within a period of eight weeks from the date of receipt of copy of this judgment. However, if any amount already received by the respondent under protest, it could be deducted from the total award amount. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

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Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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To

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Sub-Judge,
Dharmapuri.

T.V.THAMILSELVI, J.

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Pre-delivery judgment in
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