



S.A.No.729 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

Second Appeal No.729 of 2019

1. The Special Tahsildar,
Adi Dravidr Welfare,
Dharmapuri.

2. The District Collector,
Dharmapuri.

3. District Adi Dravidar Welfare Officer,
Dharmapuri.

... Appellants

Vs.

Munusamy (Died)
S/o. Ramalingam

1. Kulandhai
S/o.Ramalingam,

2. Mani
S/o.Ramalingam,

3. Valliya Gounder,
S/o.Ramalingam,



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4. Kuppaayi
W/o. Munusamy

5. Viswanathan
S/o.Ramalingam,

Respondents 1 to 5 are residing at
Ayaamarathupatti,
Kendenaali Village, Palaiyur Post,
Pennagaram Taluk, Dharmapuri District.

6. Saraswathi

7. Mahendaran ... Respondents

Prayer: Second Appeal filed under Section 13 of Tamil Nadu Acquisition of Land for ADW Schemes Act, 31/78 read with Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 28.02.2017 made in CMA (LA) No.51 of 2004 on the file of Sub Court, Dharmapuri, modifying the Award No.3/ADW/1995-96, Na.Ka. No.1616/95(A) dated 28.02.1996, on the file of the Special Tahsildar (AW) and Land Acquisition Officer, Dharmapuri.

For Appellants : Mrs.R. Anitha
Special Government Pleader

For Respondents : Mr. V.R.Annagandhi



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JUDGMENT

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

Challenge in this Appeal is to the judgment of the Sub Court, Dharmapuri, in an Appeal filed under Section 9 of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978.

2. An extent of 1 acre and 64 cents of land belonging to the respondents was acquired for the purposes of providing house sites to Adidraavidars, residing in Ayaamarathupatti Village of Pennagaram Taluk of Dharmapuri District. The 4(1) notification was published on 10.10.1995 and an award came to be passed on 28.02.1996. The land acquisition officer awarded a princely sum of Rs.43,447/- for the entire extent of 1 acre 64 cents of land.

3. Terming the compensation as too low, the land owners preferred an Appeal in CMA LA No.51 of 2004 before the Sub Court, a Sale Deed dated 25.02.1994 was produced to demonstrate that the land in the vicinity of the acquired land has been sold for at least Rs.8/- per sq. feet. The Sale



Deed dated 25.02.1994 was exhibited as Ex.C1, an extent of 1090 sq. feet of land in Survey No.18/2 was sold for a sum of Rs.8,720/- i.e. at the rate of Rs.8/- per sq. feet.

4. Considering the fact that the said document is almost a year and 8 months prior to the 4(1) notification and the fact that the acquired lands are situate abutting Pennagaram-Mecheri Highway, and it has potential for being developed as house sites, the learned Subordinate Judge fixed the value of the acquired land at Rs.10/- per sq. feet. He also made a deduction of 25% towards development charges since the land covered by the exemplar sale deed of a small extent compared to the acquired land. Thus the learned Subordinate Judge fixed the compensation at Rs.7.50 per sq. feet. Solatium at 15% and interest at 6% were also granted. Aggrieved by the enhancement, the Government is on Appeal.

5. Mrs.R.Anitha, learned Special Government Pleader appearing for the appellants and Mr.V.R.Annagandhi, learned counsel appearing for the respondents/land owners.



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6. The learned Special Government Pleader would contend that the enhancement is almost 20 times and the sale deed relied upon by the learned Subordinate Judge is for a very small extent compared to the large extent of land acquired.

7. Contending contra Mr.V.R.Annagandhi, learned counsel appearing for the respondents/land owners would submit that the purpose for the which land is acquired is also relevant and in the case on hand the land is being acquired for provision of house sites for Adi Dravidas. He would also draw our attention to the evidence of R.W.1, wherein the witness has admitted that the land acquired is suitable for being used as house sites.

8. We have considered the rival submissions.

9. The only question that arises for determination in this Appeal is as to whether the learned Subordinate Judge was justified in enhancing the compensation to Rs.7.50 per sq. feet. As rightly pointed out by the learned



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counsel appearing for the respondents/land owners, the acquisition is for the purpose of provision of house sites and the witness admits that the land is fit for being used as house sites. It is also admitted that the land is abutting Pennagaram-Mecheri State High way.

9. The learned Subordinate Judge has taken into account, the potentiality of the land and the possibility of it being developed into house sites in the near future. Under Ex.C1, an extent of about 1090 sq. feet has been sold for Rs.8,720/- i.e. at the rate of Rs.8/- per sq. feet. The land in Survey No.18/2 is situate a little interior, whereas the acquired land is situate on the main road. Therefore, the learned Subordinate Judge has thought it fit to fix the compensation at Rs.10/- per sq. feet, make a deduction of 25% towards development and grant Rs.7.50 per sq. feet as compensation. The fixation of compensation for land acquired for house sites definitely needs a little guess work. The Exemplar Sale Deed that is relied upon is about 18 months prior to the acquisition. Therefore, some allowance has to be made for price increase. The location of the land also has to be considered.

10. The fact that the land acquired is situate on the main road



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abutting the High Way is not disputed. Hence we are unable to fault the learned Subordinate Judge for having fixed Rs.10/- per sq. feet as compensation. A fair deduction of 25% has also been made. Therefore, we do not see any reason to interfere with the compensation fixed by the Appellate Court. The Second Appeal fails and it is accordingly dismissed. There shall be no order as to costs.

(R.SUBRAMANIAN, J.) (C.KUMARAPPAN, J.)
20.11.2024

jv

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

To

1. The Presiding Officer,
Labour Court,
Salem.
2. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
No.12, Ramakrishna Road,
Salem 636 997.



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R.SUBRAMANIAN, J.

and

C.KUMARAPPAN, J.

(jv)

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