



S.A.(MD) No.487 of 2005

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A. (MD) No.487 of 2005

The Special Tahsildar (ADW),
Cheranmahadevi,
Ambasamudaram Taluk.

... Appellant

-VS-

1.Chellammal

2.Uchimakali

3.Madasamy

4.Vadivammal

5.Mariammal

... Respondents

PRAYER: Second Appeal is filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act (Act 13 of 1978) read with Section 100 of Civil Procedure Code against the judgment and decree, dated 20.12.2001, passed in C.M.A.No.6 of 1999 on the file of Sub-Court, Ambasamudaram, modifying the award, dated 11.11.1999, passed in Award No.9/98-99, by the Land Acquisition Officer, Cheranmahadevi.



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For Appellant : Mr.SRA.Ramachandran,
Addl.Govt.Pleader.

For Respondents : Mr.D.Nallathambi

JUDGMENT

The Land Acquisition Officer under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act (Act 13 of 1978) is the appellant. The respondents herein are the claimants/land owners. The Land Acquisition Officer fixed the compensation amount at the rate of Rs.140/- per cent. Not satisfied with the compensation fixed by the Land Acquisition Officer, the respondents/claimants preferred an appeal before the Sub-Court, Ambasamudaram, in C.M.A.No.6 of 1999. The first appellate Court enhanced the compensation from Rs.140/- per cent to Rs.600/- per cent. Aggrieved by the same, the present Second Appeal is preferred by the Land Acquisition Officer.

2. At the time of admission, this Court formulated the following substantial questions of law, by an order, dated 21.06.2005 :



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(1) Whether the Court below was right in fixing the market value of the lands in acquisition based on the value of smaller extent of lands ?

(2) Whether the Court below was right in accepting the value of cents of land and applying them to the lands under acquisition ?

3. The learned Additional Government Pleader, appearing for the appellant, submits that the first appellate Court, by relying on the sale deed in respect of small extent of land, fixed the land value for larger extent of lands acquired, namely, 52 cents in the present case and the same is against law. The learned Additional Government Pleader further submits that the land sold by the sale deed, relied on by the first appellate Court, was valued on per cent basis, but the same had been adopted and applied by the appellate Court for the lands acquired on acre basis. Therefore, he submitted that the procedure adopted by the first appellate Court for enhancing the compensation is vitiated.

4. The learned counsel, appearing for the respondents, contended that in respect of the land owners affected by the very same acquisition proceedings, the first appellate Court enhanced the compensation from



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Rs.140/- per cent to Rs.600/- per cent in C.M.A.No.9 of 1999 and the said order had been marked before the first appellate Court, and, relying on the same, the first appellate Court enhanced the compensation to Rs.600/- per cent. The learned counsel further submitted that the appellant had not challenged the order passed in C.M.A.No.9 of 1999 in respect of other land owners and, therefore, the benefit of the said order should be extended to the present respondents also.

5. A perusal of Ex.P-4 – order passed in C.M.A.No.9 of 1999 – would suggest that in respect of the land belonging to some other land owners affected by the very same acquisition proceedings, namely, Subbaiah Thevar, s/o. Palani Thevar, the lower appellate Court fixed the compensation at the rate of Rs.600/- per cent. In respect of his property, 30 ares, equivalent to 75 cents, were acquired and compensation was calculated on cent basis. The learned Additional Government Pleader, appearing for the appellant, has not produced any material before this Court to show that the order passed in Ex.P-4, namely, C.M.A.No.9 of 1999 was challenged by the appellant before this Court. Therefore, we can safely presume that the order passed in C.M.A.No.9 of 1999 had attained finality. When compensation was fixed by the lower appellate Court in respect of the lands belonging to other land owners affected by the very same acquisition proceedings at Rs.600/- per cent and



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the same had not been challenged by the appellant, they are not entitled to canvass the correctness of the quantum of compensation fixed in the present case alone, by singling out the respondents. The appellant is not entitled to apply two different yardsticks in respect of land owners affected by same acquisition proceedings. The benefit of the order passed in C.M.A.No.9 of 1999, marked as Ex.P-4, will enure to the present respondents also. Therefore, the substantial questions of law, framed at the time of admission, are answered against the appellant.

6. The Second Appeal stands dismissed accordingly. No costs.

10.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.Subordinate Judge,
Ambasamudaram.
- 2.Land Acquisition Officer,
Charanmahadevi.
- 3.Section Officer,
V.R. Section,
Madurai Bench of Madras High Court.



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