**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on: 30.01.2024

Pronounced on: 25.03.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

**A.S(MD)No121 of 2014**

1. Amsammal
2. A.T.Asokan
3. Nagendran
4. K.T.Umadevi
5. T. Jansirani
6. T. Latha Rani
7. Pounraj .. Petitioners 2 to 8/Appellants 1 to 7

.Vs.

The Special Tahsildar
(Land Acquisition)
Adi Dravidar Welfare Department
Nilakottai,
Dindigul District .. Respondent/Respondent

**Prayer** : This Appeal Suit has been filed under Section 54 of Land Acquisition Act against the judgment and decree dated 05.04.2011 made in LAOP No. 11 of 1997 on the file of the Land Acquisition Tribunal, Principal Sub Court, Dindigul.

For Appellant : Mr. B. Muruganandam

For Respondent : Mr. Muthu Vijayan
Special Government Pleader

**JUDGMENT**

This Appeal Suit has been filed as against the order in LAOP 11 of 1997 on the file of the Principal Sub Court Dingidul wherein reference under Section 18 was made by the Land Acquisition Officer based on the objection given by the petitioner. The land acquisition authorities awarded a compensation of Rs.93,311/- . The trial Court awarded Rs.450/-per cent and awarded Rs. 21,932/- towards the well situated in the property and also awarded solatium of 30%. As against the order passed by the LAOP tribunal the present appeal has been filed by the claimants.

2. The Government has acquired lands in Nilakottai taluk Mattaparai village S.F 156/1,an extent of 0.40.5, S.F.No.157/9 to an extent of 0.23.0 and in S.F. 157/10 to an extent of 0.47.5 hectares, in total acquired 1.11.00 hectares for construction of houses for the adi dravidars through award No.11/1991 dated 19.03.1992. The authorities have fixed compensation as Rs. 93,311 and the same was allotted to the petitioner. The petitioner has objected for the said price fixed by the authorities therefore the land acquisition authorities have referred the matter to the court under section 18 of Land Acquisition Act. According to the petitioner the lands acquired

by the Government are agricultural lands. The property was situated surrounding panchayat middle school, post office, chemical and gas company and veterinary hospital. Paper mill, banks, sugarfactory are all situated. There was a well situated in the acquired land. The value of the property is Rs.60,000/-. The neighboring lands were converted into plots and they are valued about Rs.7000/- per cent. Therefore the value has to be fixed as Rs.5000/- per cent and Rs.60,000/- for the well along with 30% of solatium with interest.

3. Before the Tribunal the claimant was examined as P.W.1 and marked documents C.1 to C3. On the side the respondent R.W 1 was examined and marked exhibits R.1 to R4. The Tribunal after analyzing evidences adduced on both sides awarded a sum of Rs.450/- per cent for the land and awarded a sum of Rs.21,932 for the well and also awarded 30% solatium and awarded 12% interest from 10.10.1992 to 11.04.1992 and the award amount should be adjusted for the award already received by the claimant and also awarded a sum of 9% interest per annum for the enhanced amount from 12.04.1992 to 11.04.1993. From 12.04.1993 till the deposit of the amount 15% interest was awarded. Being not satisfied with the award amount the claimant has preferred this appeal on the following grounds:

**Grounds of Appeal**

1) The order of the learned Tribunal is against law, weight of evidence and all probabilities of the case

2) The Tribunal has failed to consider the pleadings and evidences adduced on the appellant side

3) The Tribunal failed to consider exhibits Ex.C.1 to C3 and the appellants are entitled to more than Rs.1000/- per cent. The Tribunal failed to consider that the neighboring lands are converted into plots and the value of land is Rs.7000/- per cent and the value well is Rs.60000/-.

4)The Tribunal fixed the award amount to Rs.450/- is not based on the records which is erred in law relying the Ex.R.2 came to conclusion that the appellants are entitled to Rs. 450/ per cent as against the claim of Rs.5000/-. Therefore the r the award passed by the Tribunal is liable to be modified.

4.The learned counsel appearing for the appellant would contend that the land acquisition authorities have acquired land of the appellant for an extent of 1.11.00 hectare for construction of houses to the adidravidars. But the Government has fixed meagre amount of Rs. 93,311/- In the acquired land the value of the well is about Rs.60,000/- but the Government has only fixed a sum of Rs. 21,932/- Further the Government has valued the land for a sum of Rs.150/- per cent and thereby the appellant has filed objection to enhance the compensation amount. Therefore the matter was referred to land acquisition Tribunal and the Tribunal only taken the value of the property as Rs 450/- per cent and not fixed fair compensation. The petitioner himself was examined as PW.1 and marked Exhibits C1 to C3. The claimants have produced the estimate of the Engineer for the well and also produced the documents Exs.C.2 and C3 which are all the lands adjacent to the acquired lands and they are valued about more than Rs.7000/- per cent, therefore the award passed by the tribunal is liable to be modified.

5. The learned Special Government Pleader appearing for the respondent would contend that the authorities have fixed the value based on the value of the adjacent lands. At the time of acquiring the land the property is worth about Rs.15,000/- per acre and the value was fixed for the well as Rs.21932/- and fixed the compensation. The tribunal also after considering the evidences rejected Exs.C1 to

C3 by holding that to prove C1 no author of the document was examined. Ex.C1and C2 are far away from the acquired properties and thereby considered the report of the Tahsildhar and awarded fair compensation. Therefore the present appeal is liable to be dismissed.

6. This court has heard both sides and upon hearing both sides the point for determination in this appeal is

1) Whether the order passed by the trial court is sustainable in law and on facts

2) Whether the appeal has to be allowed or not ?

7. In this case the Government has acquired lands of the appellant for an extent of 1.11.0 hectares in Mattaparai Village, Nilakottai Taluk. The Government has fixed compensation of Rs.93,311 /- and the same was objected by the appellant and thereby reference was made under Section 18 of the Land Acquisition Act and thereafter the Tribunal fixed a sum of Rs. 450/- per cent and fixed Rs.21,932/- for the well. The main contention of the appellant is that the property is worth about Rs,7000/- per cent but the tribunal has fixed only Rs.450/- per cent. The well was valued Rs.58,000/- but the Tribunal has fixed a sum of Rs. 21,392/-

8. In order to prove the same, the claimant was examined as P.W.1 and marked documents Exs.C1. to Ex.C3. Ex.C1 is the Commissioner report, and C2 and C3 are certified copies of the sale deeds for the adjacent land. On the side of the respondent they have examined RW.1 and marked exhibits R.1 to R4. Ex.R1 copy of award. R2 is the report of Tahsildar for the lands adjacent to the acquired properties and R3 is certified copy of the sale deed in respect of adjacent land. Ex.R4 is the rough sketch. The exhibit Ex.C.1 is the report of the Engineer wherein the value of the well was mentioned as Rs. 58,500/- but the authorities has fixed a sum of Rs.21,932/-. The tribunal has not considered Ex.C1 since the author of the documents was not examined. This court has perused Ex.C.1 and it is the report filed by the Engineer and the value fixed for the well is Rs.58,500/-. Before the Tribunal the claimant failed to examine the author of the document. However the respondents have not objected the value fixed by the Engineer and the said report was obtained through Commissioner. There is no document produced by the respondent as to how they fixed the value for the well. Therefore the Ex.C.1 can be relied up on by this Court and only because of non examination of author of the document the court cannot reject Ex.C1 when there is no specific denial by the

respondent. Therefore this Court fixed the value for well as Rs. 58,500/-.

9. As far as Ex.C2 and C3 are concerned those documents are pertaining to another village namely Perumalpatti Village. The acquired lands situated in Mattaparai village, there is no proof to show that the said documents are adjacent to the acquired properties. The said lands are also situated more than 2 ½ kms from the acquired land. Therefore the claimants have not produced any documents to prove the value of the property. In the absence of any documents it is appropriate to rely the documents of the respondent side. As per Ex.A.2 is the document taken for fixing the value of the land. The Ex.A2 land is dated 09.06.1990 pertaining to S.F.No.159/10 which is adjacent to the land of the acquired land. In the said document the value was fixed 4600/-for 23 cents. In the award Ex.R.1 the value was mentioned as Rs.29,000/-, therefore this Court can fix the above said value of the property for this acquired lands.

10. The trial Court also in this context taken the value of the property and correctly refused to rely on Ex.C2 and C3 and after relying the documents on the respondent side R.1 and R2 correctly

fixed the value of the property as Rs.450/- per cent. Therefore the order passed by the Tribunal in respect of land is in order. This Court already decided that the value fixed by the Tribunal in respect of the well is not acceptable, thereby the order passed by the Tribunal is liable to be modified. The appellant is entitled to Rs. 58,500/- towards the well and entitled to a sum of Rs. 450/-per cent for the land acquired by the respondents. Therefore the plaintiff is entitled to interest as per the act.

11. With the above said modification the appeal is partly allowed.

12. In the result, this appeal suit is partly allowed and the award passed by the Tribunal is modified to the effect that the petitioner is entitled to compensation of Rs. 450/- per one cent and Rs.58,500/- for the well along with 30% of solatium for the acquired land. Further the appellant is entitled to interest as awarded by the trial Court. No costs.

**25.03.2024**

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

**To:**

1. The Land Acquisition Tribunal,
   Principal Sub Court, Dindigul

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

**P. DHANABAL,J.**

aav

**A.S(MD)No121 of 2014**

**25.03.2024**