



S.A.No.754 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

S.A.No.754 of 2003

- 1.V.Mukunthan Nair (Died)
- 2.P.Rajeswari
- 3.Balamony
- 4.M.S.Vasan

... Appellants

(Appellants 2 to 4 are brought on record as LR's of the deceased sole appellant as per order of the Court dated 18.06.2007 made in M.P.(MD)No.1 of 2007)

Vs

- 1.Special Tahsildar (Adhi Dravidar Welfare),
Land Acquisition Officer,
Padmanabhapuram.
- 2.District Land Revenue Officer,
Kanyakumari District,
at Nagercoil.

... Respondents

PRAYER: Second Appeal filed under Section 13 of Tamil Nadu Land Acquisition Act, 1894 r/w Section 100 of C.P.C. against the judgment and decree dated 24.09.2001 passed by the learned Subordinate Judge of Padmanabhapuram in L.A.A.No.2 of 1998 on his file, confirming the Award No.4/97-98 dated 14.11.1997 passed by the Special Tahsildar (Adhi Dravidar Welfare) and Land Acquisition Officer, Padmanabhapuram at Thuckalay.



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For Appellants : Mr.K.N.Thampi
For Respondents : Mr.SRA.Ramachandran,
Addl. Govt. Pleader.

JUDGMENT

The second appeal is filed challenging the order passed by the Sub-Court, Padmanabhapuram dismissing the appeal filed by the claimants/land owners not satisfied with the compensation amount fixed by the first respondent under the Provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978).

2. It is seen from the records that 78 cents of lands belonged to the appellants situated in S.Nos.387/13B and 387/14 in Thiruvithancode Village, Kalkulam Taluk of Kanyakumari District was acquired for providing house sites to the house less Adhi Dravidars under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Act 31 of 1978). The Land Acquisition Officer by taking into consideration the sale deed dated 24.10.1996 concerning a property with an extent of 28.5 cents in S.No.387/8 of the same Village executed by one



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Seethalakshmi Amma in favour of Martinpappa, came to a conclusion that the appropriate compensation for the acquired lands would be Rs. 1,013/- per cent. Not satisfied with the compensation amount fixed by the Land Acquisition Officer, the appellants herein preferred a Land Acquisition Appeal before the Sub Court, Padmanabhapuram. The first appellate Court agreed with the compensation amount fixed by the Land Acquisition Officer and dismissed the appeal. Aggrieved by the same, the claimants/land owners have come by way of this Second Appeal.

3. The learned counsel appearing for the appellants vehemently contended that the claimants produced two documents dated 12.10.1995 and 06.12.1995, wherein the lands were sold for higher amount and the said documents were not taken into consideration by the first appellate Court. The learned counsel for the appellants submitted that Ex.A3 is a copy of the order passed by the Land Acquisition Officer in respect of the land adjacent to the claimants' land, wherein compensation amount was fixed at Rs.2,273/- per cent. The said document was also not taken into consideration by the appellate Court. Therefore, according to the counsel, the judgment and decree passed by the first appellate Court is liable to be set aside.



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4. On the basis of the submissions made by the learned counsel for the appellants, the following substantial question of law is taken up for consideration:

Whether the 1st respondent and the learned Subordinate Judge were correct in treating the land of the appellants differently from the land in Survey No. 373/1B, for fixation of compensation for acquisition, that too without giving any specific reason for the same?

5. The learned Additional Government Pleader appearing for the respondents is heard on the said question of law.

6. A perusal of the appellate Court judgment and the documents would suggest that Ex.A1 and Ex.A2 sale deeds produced by the appellants were relating to sale of properties with lesser extent. Under Ex.A1, a property with an extent of 5 cents was sold. Under Ex.A2, a small property with an extent of 7.812 cents was sold. However, the extent of the land acquired from the claimants is 78 cents. Therefore, the first appellate Court rightly rejected Ex.A1 and Ex.A2, on the ground



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that those sale deeds were relating to sale of the property with a small extent, when compared to the acquired lands. I do not find anything to interfere with the said conclusion of the appellate Court. Ex.A3 is an extract of the order passed by the Land Acquisition Officer fixing compensation for the lands situated in the adjacent survey numbers. A perusal of the same would suggest that a compensation amount of Rs. 1,19,302/- was fixed for an area of 23 ares. It is not clear from Ex.A3, what was the amount fixed as compensation per cent or per ares. The amount mentioned in Ex.A3 was the total compensation, which includes solatium as well as value of the building, trees, etc., standing in the land. The appellants failed to produce the full order passed by the Land Acquisition Officer. He only produced the extract of the order containing the operative portion of the order. Therefore, the first appellate Court rightly rejected the same as not useful to decide the correct compensation payable. The question of law taken up for consideration is accordingly answered against the appellants and the Second Appeal stands dismissed. There shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No



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S.SOUNTHAR, J.

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To

- 1.The Subordinate Judge, Padmanabhapuram.
- 2.The Special Tahsildar (Adhi Dravidar Welfare)
and Land Acquisition Officer,
Padmanabhapuram at Thuckalay.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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