IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

S.A.No.1042 of 2021
and C.M.P.No.19686 of 2021

1.The Special Tahsildar (ADW)/
Land Acquisition Officer,
Dharmapuri.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.District Adi Dravidar Welfare Officer,
Dharmapuri. ... Appellants

Vs.

Ramasamy (Died)

1.Kuppusamy (Died)

2.Karuppuchetty

3.Errusappan

4.Chinnakunji

5.Anandhayi

6.Kuppagoundar

7.Chinnappan
8.Uthiragu ... Respondents

[RR5 to 8 are brought on record as LRs of the deceased R1 vide order of Court dated 22.01.2024 made in CMP.No.3073 of 2022 in SA.No.1042 of 2021 (MSJ & KGTJ)]

Prayer: Second Appeal filed under Section 100 of the Civil Procedure Code, 1908 r/w. Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, praying to set aside the judgment and decree dated 05.12.2019 made in CMA.(LA).No.66 of 2004 on the file of Sub Court, Dharmapuri, modifying the Award No.14/ADW/1995-1996, Na.Ka.No.1645/1995(A), dated 28.03.1996, on the file of the Special Tahsildar (ADW) and Land Acquisition Officer, Dharmapuri.

For Appellants : Mrs.R.Anitha,
Special Government Pleader

For R2 to R8 : Mr.V.R.Annagandhi

JUDGMENT

(Judgment of the Court was made by *M.S.RAMESH, J.*)

This Second Appeal is filed as against the judgment and decree dated 05.12.2019 passed in C.M.A.(LA).No.66 of 2004 by the Sub Court, Dharmapuri, allowing the respondents' appeal seeking for enhancement of compensation.

2. At the time of admission, this Court had framed the following substantial questions of law:-

> ***"****(i)Whether the learned Subordinate Judge, Dharmapuri was right in taking into consideration the value reflected by a Sale Deed of land which is not situate within 1.6 Kms radius from the acquired land.*
>
> *(ii)Whether the learned Subordinate Judge was right in adopting a deduction of only 25% as against 33% which is a standard norm deducible from various pronouncements of the Hon'ble Supreme Court particularly when the acquisition is for a Housing Project.****"***

3. The main ground on which the Second Appeal has been filed is that the Reference Court, while enhancing the compensation from Rs.0.44 paise per sqft. to Rs.12/- per sqft., ought not to have provided for 25%

towards development charges, but should have fixed it at 50%. The foreword notification was issued on 04.12.1995 and the Award came to be passed on 28.03.1996. The total compensation fixed was at Rs.48,046/- per sqft. Under the scheme, the total acquired land was 2.47 acres (1 hectare) which belong to the first respondent herein, who had died pending the Second Appeal. The legal heirs for the first respondent was brought on record as respondents 5 to 8.

4. The learned Special Government Pleader appearing for the appellants placed reliance on the decision of the Hon'ble Supreme Court in the case of ***'Union of India Vs. Premlata & others'*** reported in ***(2022) 7 Supreme Court Cases 745*** and contended that as per the said judgment, the Lower Court ought to have fixed the development charges at 50% instead of 25%.

5. Per contra, the learned counsel appearing for the respondents 2 to 8 opposed the submission of the learned Special Government Pleader and stated that the total acquired land is only 1 hectare and therefore, 25% would be more than sufficient to develop the lands into house sites and hence, there is no infirmity in the order passed by the Sub Court.

6. We are unable to endorse the submission of the learned Special Government Pleader, since the decision in ***Premlata's case*** *(stated supra)* appears to be not in their favour. As a matter of fact, in ***Premlata's case***, reliance was placed in the case of ***'Union of India Vs. Dyagala Devamma'*** reported in ***(2018) 8 SCC 485*** for the purpose of determination of the development charges of the acquired lands. In the said decision, it has been held that while determining the true market value of the acquired land, especially when the acquired land is a large chunk of undeveloped land, it would be just and reasonable to make appropriate deduction towards expenses for development of acquired land.

7. No hard and fast rules have been fixed for such determination. On the other hand, various factors are required to be taken into consideration for the purpose of determination of the development charges. In ***Premlata's case***, the Hon'ble Supreme Court had taken into account that a large parcel of land admeasuring 46 ha 89 R was acquired, which were non-agricultural developed plots and therefore, had enhanced the development charges to 40%. Such are not the facts in the present Second Appeal. Only 2.47 acres alone has been acquired and in order to develop such piece of land, 25% of the development charges would be more than reasonable.

8. Apart from the ground of our interference to the development charges, the learned Special Government Pleader also raised the ground that though the Award was passed on 28.03.1996, the appeal came to be filed only in the year 2004, after 8 years and therefore, there is an inordinate delay. The ground of delay was not raised by the appellants before the Sub Court. A perusal of the judgment also does not reveal so.

9. Though there will be not any legal bar for the appellants to raise the ground of limitation during the Second Appeal also, we have taken into consideration the longevity of the acquisition proceedings which commenced in the year 1995 and at this stage, if the present Second Appeal is to be allowed, serious prejudice would be caused to the respondents herein. This apart, the appellants also have not raised any other ground in the Second Appeal apart from seeking for interference to the development charges. In this background, we are not inclined to entertain this ground of limitation.

10. In view of the foregoing reasons, we find no merit in the Second Appeal and accordingly, the same stands dismissed. No costs. Connected miscellaneous petition is closed.

[M.S.R, J.] **[R.S.V, J.]**

11.09.2025

Index: Yes
Speaking order
Internet: Yes
Neutral Citation: Yes

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M.S.RAMESH, J.
and
R. SAKTHIVEL, J.

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