IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-06-2025

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.S.A.No.16 of 2023

1.The Government of Tamil Nadu
rep by the District Collector,
Erode

2.The District Collector,
Erode District.

3.The Special Tahsildar,
ADW,
Kangeyam. ...Authorised Officer/ Respondents/Appellants

Vs

Subbulakshmi ...Claimant/Appellant Respondent

PRAYER: Appeal is filed under Section 100 of the Code of Civil Procedure, 1908 read with Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, to set aside the Judgment and Decree dated 05.03.2001 made in CMA.No.7 of 1999 on the file of the learned Subordinate Judge, Dharapuram, modifying the Award No.3/97-98 dated 22.03.1999 on the file of the Special Tahsildar (ADW), Kangeyam.

For Appellant(s):	Mr.C. Sathish, Government Advocate
For Respondent(s):	Mr.N.Sankara Subramaniam, No appearance

JUDGMENT

This Court by order dated 11.07.2022 directed the Registry to covert the Second Appeal No.1587 of 2002 as Civil Miscellaneous Second Appeal No.16 of 2023.

2.The appellant is the respondent in C.M.A.No.7 of 1999 and the Authorised Officer in Award No.3/97/98.

3.The brief facts of the case are as follows:

The summary of the order dated 22.03.1999 passed by the Special Tahsildar (Adi Dravidar Welfare), Kangeyam in Land Acquisition No. 3/97-98 is that the Government had proposed to acquire lands for providing house-site pattas to 115 Adi Dravidar families belonging to Somanuthu area. For this purpose, the lands situated in Tharapuram Taluk, Chinnakkampalayam Village, in Survey No. 589/1A1, to an extent of 2.95.0 hectares, was planned to be acquired. Accordingly, a Notification was published in the District Gazette on 10.12.1997. The Village Administrative Officer of Chinnakkampalayam published the Notification through tom-tom on 13.03.1998. A personal notice to the interested landowner was issued on 10.03.1999. During the enquiry conducted on 22.03.1999, the Village Administrative Officer and the claimant both appeared and gave their statements. The claimant stated that she had no objection to the acquisition of his land in Survey No. 589/1A1 to an extent of 2.95.0 hectares by the Government. She further stated that the **d**ilapidated shed located in the acquired land would be removed at his own responsibility, and that he had already removed 20 coconut trees standing on the land and did not claim any compensation for them. She also stated that a small water pit, about 25 feet deep located on the western side, may be allowed for use by the beneficiaries, and that he did not claim compensation for the same. However, the claimant stated that the compensation awarded for the acquired land was inadequate, and therefore, she was receiving the compensation under protest. The Special Tahsildar (Adi Dravidar Welfare), Kangeyam, collected and examined the sale statistics of Chinnakkampalayam Village for the period of one year preceding 10.12.1997 from the Sub-Registrar Office, Dharapuram, and fixed the land value as Rs.45,333/- per acre, in accordance with the instructions of the District Revenue Officer. Based on the above, the compensation payable to the claimant was fixed for the land value at Rs.3,30,478/- with 15% of Solatium at Rs.49,572/- and the compensation for the structure at Rs.5,400/-. Thus, a total compensation of Rs.3,85,450/- was awarded to the claimant, and orders were passed accordingly.

4.The claimant raised objections stating that the 3rd respondent failed to consider that the acquired land is suitable for conversion into house-site plots, and that its value would appreciate significantly in the future. The 3rd respondent has not provided any valid reason for not accepting the Government fixed the value of Rs.2,60,000/- as per the Sale Deed dated 05.01.1996. There is no necessity that a prospective purchaser must always be available for purchasing the land. For the past five years in Erode District, lands required for providing house-sites to Adi Dravidars were purchased only through negotiated settlement. For such acquisition, a High-Level Committee was constituted, and based on its recommendations, lands were purchased. The value for the present land ought to have been fixed by following the norms adopted by that High-Level Committee. The value of land purchased through direct negotiation is normally higher. To determine the market value of land sought to be acquired compulsorily, the price fixed for lands purchased through negotiated settlement cannot be adopted, and doing so would be illegal. The claimant further contended that the acquired land is situated very close to Dharapuram Town. There are residential buildings, non-residential buildings, and Factories in the surrounding area. A Post Office, School building, Panchayat Office, Survey Office, Amaravathi Project Office, and Brick kiln units are also located in the vicinity. Further, the respondent neither examined the scribe who prepared the Sale Deed relied upon by him nor the vendor and purchaser connected with that Sale Deed. Therefore, the claimant contends that the market value of the acquired lands ought to have been fixed at Rs. 3,00,000/- per acre.

5.Considering the submissions, the market value fixed under Award No.3/97-98 dated 22.03.1999 by the Special Tahsildar (Adi Dravidar Welfare), Kangeyam, relating to the acquisition of land in S.F.No.589/1A1 measuring 2.95.0 hectares (7.29 acres) in Chinnakkampalayam Village for providing house sites to Adi Dravidar families, came to be enhanced. The Land Acquisition Officer originally fixed the market value at Rs.45,333/- per acre, based on a sample sale in S.No.340 and granted total compensation of Rs.3,85,450/-, which was received by the land owner under protest.

6.Aggrieved over the same, the claimant preferred an appeal in C.M.A.No.7/1999 seeking enhancement, and the learned Sub Judge, on appreciation of evidence, re-fixed the market value at Rs.2,70,000/- per acre, thereby determining total compensation at Rs.22,63,545/-. Aggrieved by the enhancement, the Authorised Officer/appellants have preferred the present Civil Miscellaneous Second Appeal.

7.This Court admitted the Civil Miscellaneous Second Appeal on the following Substantial Questions of Law:

(a) Whether the Court below was right in considering the oral and documentary evidence in its proper perspective?

(b)Whether the Court below was right in not applying the guidelines and principles laid down by the Hon'ble Supreme Court and this Hon'ble Court, while fixing the market value for the lands acquired?

(c)Whether the Court below was right in placing undue reliance on Ex.C-1?

(d)Whether the Court below was right in suo motu *enhancing the market value?*

(e)Whether the other reasons given by the Court below are right in Law?"

8.The learned Government Advocate appearing for the appellants would submit that the Court below erred in rejecting the enquiry proceedings and the sample Sale Deed relied upon by the Land Acquisition Officer. The Ex.C1-Sale Deed relied upon by the claimant, related to a very small extent, and therefore, the price fetched under it could not have been mechanically applied to a large extent of agricultural land acquired for residential purpose. He would contend that the Court below failed to apply necessary deductions towards development charges, such as, formation of roads, leaving common areas, and providing civic amenities. Further, he would contend that the findings of the learned Sub Judge were based on conjectures and that the enhancement from Rs.45,333/- per acre to Rs.2,70,000/- per acre was arbitrary, excessive and unsupported by any acceptable evidence. Hence, the learned Government Advocate appearing for the appellants prayed that the Judgment of the learned Sub Judge has to be set aside and the award of the Land Acquisition Officer has to be restored.

9.The learned counsel appearing for the claimant argued that at the time of acquisition of the land, the 3rd respondent has not properly valued the property in respect of 7 acres of lands belonging to the claimant, wa acquired.

At the time of valuing the property, the 3rd respondent relied the Sale Deed dated 05.01.1996 as such is erroneous one for the reason that the concerned land is situated near about one kilo metre from the acquisition of the lands. Therefore, the value of the lands would not be equated to the value of this land. Therefore, the Award was challenged and the learned Judge has rightly considered the evidence on record and granted enhanced compensation to the claimants. Hence, the learned counsel prayed for dismissal of the appeal as no merits.

10.On a perusal of the records, it is seen that the Special Tahsildar (Adi Dravidar Welfare), Kangeyam by order dated 22.03.1999 has passed an order in Land Acquisition No. 3/97-98. In the said Award, the Government had proposed to acquire lands for providing house-site pattas to 115 Adi Dravidar families belonging to Somanuthu area. In this regard, the lands situated in Tharapuram Taluk, Chinnakkampalayam Village, in Survey No. 589/1A1, to an extent of 2.95.0 hectares, was planned to be acquired. Thereafter, a Notification was published in the District Gazette on 10.12.1997 and tom-tom was beaten on

13.03.1998 and also a personal notice was issued to the interested landowners on 10.03.1999. During the enquiry conducted on 22.03.1999, the Village Administrative Officer and the claimant both appeared and gave their statements and the claimant stated "No objection" to the acquisition of her land in Survey No. 589/1A1 to an extent of 2.95.0 hectares by the Government. However, the claimant felt that the compensation awarded for the acquired land was inadequate, and therefore, she received the compensation under protest. After examining the sale statistics of Chinnakkampalayam Village by the Special Tahsildar, the land value was fixed at Rs.45,333/- per acre and the compensation payable to the claimant was fixed for the land value at Rs.3,30,478/- with 15% of Solatium at Rs.49,572/- and the compensation for the structure at Rs.5,400/-, totalling Rs.3,85,450/- was awarded to the claimant. Since the Award amount was very low, the claimant filed an appeal before the Subordinate Judge. The learned Judge after analysing the oral and documentary evidence made on either side and the documents for the nearest lands which were sold under a registered Sale Deed dated 23.04.1997 in S.No.245, measuring an extent of 89 cents for a sum of Rs.2,40,000/- was produced by the claimant marked as Ex.C.1 and the purchaser of the said property has also been examined as CW2, and the data Sale Deed relied by the State dated 05.01.1996 is in existence far away from the lands in acquisition, and the Sale Deed was executed in favour of the District Collector, came to a conclusion that the acquired land is situated very close to Dharapuram Town and there are residential buildings, non-residential buildings, Schools and Factories in and around the surrounding area. Hence, the learned Judge re-fixed the market value at Rs.2,70,000/- per acre, thereby determining total compensation at Rs.22,63,545/-.

11.The first and foremost point that arises for consideration is whether the Court below was justified in rejecting the materials relied upon by the Land Acquisition Officer and in adopting Ex.C1 as the basis for fixation of market value. It is stated that the sample sale deed relied on by the Officer pertained to the land situated more than one kilometre away, with fifteen intervening survey fields, and was therefore not comparable to the acquired lands. The Ex.C1 was executed nine months prior to the Notification and related to land adjoining or in close proximity to the acquired land and of similar classification. There was no allegation of sham or collusive nature in Ex.C1, and the parties to the document were examined. Therefore, the learned Judge has rightly relied on Ex.C1 as the proper comparable sale instance. Further, the sample sale deed marked as Ex.R1 relied on by the Land Acquisition Officer pertains to land situated far away, not proximate to the acquired land. Admittedly, the Officer did not examine either the vendor or the purchaser of that Sale. Moreover, the District Revenue Officer's order, which forms the alleged basis of the award, was not produced before the Court. The Enquiry Officer himself admitted in cross-examination that the acquired land is located adjacent to the Tar road and is capable of cultivation, contrary to what he stated before the Court. In contrast, Ex.C1 relates to the land located very near the acquired land, of similar classification, and executed within a reasonable time before the Notification. There is no material to suggest that Ex.C1 was a manipulated or sham transaction. Thus, the learned Judge was justified in preferring Ex.C1 over Ex.R1.

12.As regards the contention that the Court ought to have applied deductions for developmental charges, it is seen that no acceptable evidence was produced by the appellants to establish the necessity or extent of such deductions. The acquired land is already situated in a developing locality and the fixation of market value at Rs.2,70,000/- per acre, based on Ex.C1, cannot be termed arbitrary or excessive. Hence, this Court find no ground to interfere with the well-considered judgment of the learned Sub Judge. Accordingly, the Substantial Questions of Law (a) to (e) are answered in favour of the claimant.

In the result, the Civil Miscellaneous Second Appeal fails and is dismissed. The Judgment and Decree dated 05.03.2001 in C.M.A.No.7 of 1999 passed by the learned Sub Judge, Dharapuram, enhancing the

compensation payable to the respondent/claimant, are hereby confirmed. Time is granted for a period of eight weeks from the date of receipt of a copy of this

Judgement, for paying the balance amount, if any.   No costs.

05-06-2025

mps

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

1.The Subordinate Judge,
Dharapuram.

2.The Special Tahsildar (ADW),
Kangeyam.

T.V.THAMILSELVI, J.

mps

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