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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-08-2025

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THE HONOURABLE MRS.JUSTICE T.V. THAMILSELVI

C.M.S.A.Nos.13 to 16 and 41 of 2024

and

C.M.P.Nos.18542 of 2023 and 3731, 3733, 3741,
3742, 3789, 3790 and 3694 of 2024

The Land Acquisition Officer and Special
Tahsidlar (Adi Dravidar Welfare),
Namakkal.

...Appellant/Respondent/LAO
in all appeals

Vs

Palanisamy

...Respondent/Appellant/Claimant
in C.M.S.A.No.13 of 2024

Santhi

...Respondent/Appellant/Claimant
in C.M.S.A.No.14 of 2024

Palanisamy

...Respondent/Appellant/Claimant
in C.M.S.A.No.15 of 2024

Sellappa Gounder (Died)
Ponnammal (Died)

1.K.S.Palanisamy

...Respondent/Appellant/Claimant
in C.M.S.A.No.16 of 2024

1. P. Bhoopathy

...Respondent/Appellant/Claimant
in C.M.S.A.No.41 of 2024



Prayer in C.M.S.A.No.13 of 2024: Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 read with Section 100 of the Code of Civil Procedure, 1908, to set aside the Judgment and Decree dated 20.02.2020 in L.A.C.M.A.No.19 of 2000 on the file of the learned Principal Subordinate Judge, Namakkal, modifying the Award No.13/1999-2000 dated 14.12.1999 on the file of the learned Special Tahsildar (Adi Dravidar Welfare Department) and Land Acquisition Officer, Namakkal.

Prayer in C.M.S.A.No.14 of 2024: Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 read with Section 100 of the Code of Civil Procedure, 1908, to set aside the Judgment and Decree dated 20.2.2020 made in LACMA.NO.18 of 2000 on the file of Principal Subordinate Judge, Namakkal, modifying the Award No.13/1999-2000 dated 14.12.1999, on the file of the Special Tahsildar (ADW) and Land Acquisition Officer, Namakkal.

Prayer in C.M.S.A.No.15 of 2024: Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 read with Section 100 of the Code of Civil Procedure, 1908, to set aside the Judgment and Decree dated 20.2.2020 made in LACMA.NO.10/2001 on the file of the learned Principal Subordinate Judge, Namakkal, modifying the Award No.13/1999-2000 dated 14.12.1999 on the file of the Special Tahsildar (ADW) and Land Acquisition Officer, Namakkal.

Prayer in C.M.S.A.No.16 of 2024: Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 read with Section 100 of the Code of Civil Procedure, 1908, to set aside the Judgment and Decree dated 20.02.2020 made in LACMA No.21/2000 on the file of the learned Principal Subordinate Judge, Namakkal, modifying the Award



No.13/1999-2000 dt. 14.12.1999, on the file of the Special Tahsildar (ADW) and Land Acquisition Officer, Namakkal.

Prayer in C.M.S.A.No.41 of 2023: Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 read with Section 100 of the Code of Civil Procedure, 1908, to set aside the Judgment and Decree dated 20.02.2020 made in LACMA.NO. 20/2000 on the file of the learned Principal Subordinate Judge, Namakkal, modifying the Award No.13/1999-2000 dated 14.12.1999 on the file of the Special Tahsildar (ADW) and Land Acquisition Officer, Namakkal.

For Appellant(s) : Mrs.R.Anitha,
Special Government Pleader
assisted by
Mr.C.Sathish
in all the appeals

For Respondent(s): Mr.S.Saravanakumar
for Mr.I.Abrar Mohamed Abdullah
in all the appeals

COMMON JUDGMENT

These Civil Miscellaneous Second Appeals have been filed against the Judgment and Decree dated 20.02.2020 in L.A.C.M.A.Nos.18 to 21 of 2000 and 20 of 2001 on the file of the learned Principal Subordinate Judge, Namakkal, modifying the Award No.13/1999-2000 dated 14.12.1999 on the file of the learned Special Tahsildar (Adi Dravidar Welfare Department) and Land Acquisition Officer, Namakkal.



2.The appellant is the Land Acquisition Officer and the claimants are the respondents. Challenging the enhancement of award passed by the First Appellate Court, the appellant is before this Court.

3.The learned counsel appearing for the appellant would submit that the learned Subordinate Judge erred in law and on facts in allowing LACMA Nos. 18 to 21 of 2000 and LACMA No.10 of 2001 without properly considering the documentary and oral evidence produced by the Appellant and by the Respondent. The trial Court's conclusion thereby suffers from non-application of mind to the primary materials on record. Further, the learned Subordinate Judge failed to appreciate that the Special Tahsildar (ADW) passed Award No.13/99 dated 14.12.1999 and that the Respondent did not prefer any statutory appeal under Section 9 read with Rule 6 of the Rules within the prescribed time. Section 9 of the Act and Rule 6 (appeal within six weeks from receipt of copy of the order) were accordingly applicable. Since no appeal was preferred against Award No.13/99, the impugned interference is legally impermissible. The learned Subordinate Judge failed to note that the Award was passed on 14.12.1999 and that the Respondent only filed the present appeal on 27.03.2001. The appeal is therefore barred by limitation and ought to have been dismissed on that ground alone. He would submit that the learned Subordinate Judge erred in law in relying on the two sale deeds relied upon by the Respondent, as comparable transactions. Both Ex.C1 and Ex.C2 relate to sale of Natham land

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of a materially smaller extent and different character. The acquired land is agricultural manavari dry land. The natham land of small extent cannot be treated as an identical or comparable land for fixing market value of the larger agricultural holdings acquired. Reliance on such non-comparable data is unsustainable.

4.The learned counsel would further submit that at paragraph V of the Judgment the Lower Court placed reliance on Ex.P2 (Ex.C2) to fix market value. Ex.C2 is a Sale Deed of 0.62 cent in S.No.34/3 sold at Rs.4,838.7 per cent vide sale deed dated 03.02.1998. The same transaction was considered and rejected by the LAO in Award No.13/99 as being incomparable. The trial Court's adoption of Ex.C2 is therefore perverse and contrary to the record. Hence, the judgment and decree based on such adoption are liable to be set aside. A sale deed of very small extent should only be relied upon where no comparable larger extent land is available. In the present case. the LAO had already identified and relied upon an identical datum land for valuation. There was therefore no occasion for the Lower Court to substitute the LAO's datum by reference to smaller, non-identical house-site transactions. The impugned judgment is consequently bad in law. The learned Subordinate Judge erred in treating the transaction in S.No.34/3, Periyapatti village (extent 0.62 cent sold for Rs.3,00,000 vide sale deed dated 03.02.1998) as reflecting the market value of the acquired agricultural lands. The conveyance in that sale deed relates to a

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house-site, whereas the acquired lands were Manavari dry agricultural lands. By equating house-site values with agricultural land values the Learned Judge improperly enhanced compensation.

5.The learned counsel would contend that the learned Subordinate Judge's reliance on small house-site transactions to enhance compensation is contrary to the principles laid down by the Hon'ble Supreme Court in **K.S. Shivadevamma & Ors. v. Commissioner (reported in (1996) 2 SCC 62)**. The percentage deductions and the approach to development/amenity deductions depend upon the nature and stage of development. The trial Court failed to apply these principles correctly. He would contend that the Learned Subordinate Judge also failed to grant appropriate deductions towards development charges and for land required for roads and amenities as contemplated by the authorities, again contrary to the guidance of the Supreme Court in the judgment referred above. The omission has resulted in an excessive enhancement of compensation. The learned Subordinate Judge further erred in law by fixing the value of agricultural lands on a per-cent (square foot) basis instead of on an acreage basis. When the land is used for agricultural purposes, market value ought to be assessed on an acreage basis and a square-foot basis derived from a small house-site sale is improper and will lead to unjust enrichment of the claimant. The approach adopted is contrary to the decision of the Hon'ble Supreme Court in **Special Land Acquisition**

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Officer, Dharwad v. Tajar Hanifabi (Smt.) reported in (1996) 10 SCC 627,

where determination on square-foot basis for agricultural holdings was disapproved and the compensation was reduced. Further, he would contend that the award amount granted by the First Appellate Judge is exorbitant. Hence, the impugned judgment and decree are perverse, legally unsustainable and liable to be set aside.

6.This Civil Miscellaneous Second Appeals have been admitted on the following Substantial Question of Law for consideration:

“Whether the learned Judge justified in holding that the enhancement of award can be made based on the Sale Deed document which is house site and small extent when the acquired land is Manavari dry land and larger extent?”

7.The learned counsel for the respondents would contend that the First Appellate Court has rightly come to a conclusion that the value of land found in Ex.P2 is just and proper compensation. Hence, the First Appellate Court enhanced the award on per with the rate sold under Ex. P2- Sale deed dated 03.02.1998, whereas 4(1) Notification dated 31.08.1999 under the Land Acquisition Act was published in the Namakkal District Gazette Notification dated 16.09.1999. Since Ex.P2 was executed one year before the Notification was published, as per the Judgment of the Apex Court reported in (2004) Vol 2 7/11

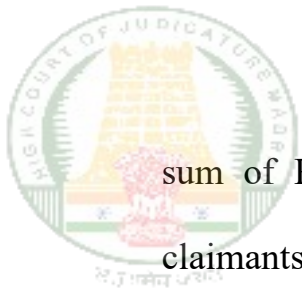


SCC 283 holding that the claimants are entitled for appreciation at 15% per annum over the market value. It is well settled that appreciation of 15% is entitled to the claimants for every year dates back to the date of 4(1) notification. If the said principle is applied to the present case then the claimants are entitled to such appreciation for 1 years from 03.02.1998 to 31.08.1999. The market value of the land as on 03.02.1998 was Rs.4838.7 per cent and if increase in land cost at the rate of 15% per annum is adopted for 1 year then it will be 15% hike which will be arrived to Rs.5565/- per cent. Hence, the claimants are entitled for 15% Solatium and 6% interest per annum on the enhanced compensation amount alone.

8.Heard the learned counsel appearing on either side and perused the materials available on record.

9.Admittedly, the Sale Deed relied by the claimants pertaining to house sites to an extent 1.16.0 Hectares or 2.87 acres situated at Periapatty Village in Namakkal District were decided to be acquired for Provision of House Sites to the Arunthathiars of Kavettipatty h/o Periapatty Village by the Collector, Namakkal under Section 4 (1) of the Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes Act 1978. Therefore, the First Appellate Court ought to have referred the Ex.C.2 - Sale Deed as house sites and the claimants are all given theirs lands for the beneficiaries of the people under the Act. Hence, a

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sum of Rs.4,200/- per cent is fixed by this Court as compensation to the claimants. Accordingly, this Award passed by the First Appellate Judge is set

aside. The acquired land was the agricultural lands and now it has been converted into house sites, no doubt, the land possessed potentially value, but no development has been taken place as on date. Therefore, this Court deducts 20% is ordered to be made towards development charges from the award amount and the claimants are entitled to 15% of solatium on enhanced compensation. Further, the claimants are entitled to get interest @6% per annum on the enhanced compensation from the date of acquisition till the date of entire payment. The claimants are also entitled to receive enhanced compensation after deducting the amount already received by them. The modified amount is directed to be deposited within a period of twelve weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimants are permitted to withdraw the amount.

10. Accordingly, these Civil Miscellaneous Second Appeal is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

19-08-2025

mps

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.The Principal Subordinate Judge,
Namakkal,

2.The Special Tahsildar (Adi Dravidar Welfare Department)
and Land Acquisition Officer,
Namakkal.

3.The Section Officer,
V.R. Section,
Madras High Court.



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C.M.S.A.Nos.13 to 16 and 41 of 202



T.V.THAMILSELVI, J.

mps

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