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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

A.S(MD)No.185 of 2022

M.Liakath Ali .... Appellant / Claimant

Vs.

The Revenue Divisional Officer,
(Land Acquisition Officer)
Padmanabhapuram,
Kanyakumari District. ... Respondent/Respondent

Prayer : Appeal Suit filed under Section 96 of Civil Procedure Code, against the the Judgment and decree dated 29.08.2018 passed in L.A.O.P.No.1 of 2010 by the learned Sub Judge, Kuzhithurai, Kanyakumari District.

For Appellants : Mr.T.Lajapathi Roy
Senior Counsel

For Respondents : Mrs.Mohamed Yasmin Parvin
Government Advocate

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JUDGEMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.)**

The appellant owned the lands in R.S.No.468/16B & R.S.No.468/17 in Panikulam Village, Vilavancode Taluk, Kanyakumari District. The extent of 64.4423 cents in R.S.No.468/16B and 23.465 cents in R.S.No.468/17 were acquired for construction of fishing harbour at Thengaipattinam. The land acquisition officer passed the award on 28.09.2007 fixing Rs.5,742.66 per cent for Survey No.468/16B and Rs.5,650.58/- per cent for Survey No.468/17. A total sum of Rs.5,02,660/- was awarded. Aggrieved by the same, reference was sought under Section 18 of the Land Acquisition Act, 1894. Reference was made to the Sub Court, Kuzhithurai. While the land owner filed his claim statement on 17.06.2010 claiming compensation at the rate of Rs.1,00,000/- per cent, he also sought solatium and other usual benefits conferred by the statute. The department filed counter to the claim statement. The land owner examined himself as P.W.1 and five other witnesses were examined on his side. Ex.A1 to Ex.A16 were also marked. On the side of the revenue, two officials were examined. Ex.B1 & Ex.B2 were marked. After consideration of the evidence on record, the trial Court fixed the market value at Rs.15,246/- per cent for Survey No.468/16B and Rs.21,780/- per cent for Survey No.468/17. The total market value was fixed at Rs.14,93,555/-. For the trees, the value was fixed at Rs.1,29,950/-. Vide order dated 29.08.2018 in L.A.O.P.No.1 of 2010, the

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learned Sub Judge, Kuzhithurai fixed the compensation accordingly as mentioned above and therefore, the claimant is entitled to other statutory benefits. Aggrieved by the same, this appeal has been filed.

2.The learned counsel appearing for the appellant reiterated all the contentions set out in the memorandum of grounds of appeal. He drew our attention to the decision reported in ***(2005) 4 SCC 789 (Viluben Jhalejar Contractor (dead) by Lrs Vs. State of Gujarat)*** and the testimony of P.W.2. The sale deed dated 02.06.2004 executed in favour of P.W.2 was marked as Ex.P3. The said witness had testified that he had purchased the land at the rate of Rs.50,000/- per cent. The learned counsel for the appellant also pointed out that the lands in the vicinity were acquired at the rate of Rs.1,63,701/- a decade later. He therefore called upon this Court to modify the impugned award and grant compensation at the rate of Rs.1,00,000/- per cent.

3.Per contra, the learned Government counsel submitted that the impugned award is well reasoned and that it does not call for interference.

4.We may at the outset note that the lands comprised in Survey No. 468/16B and Survey No.468/17 are situated adjacent to each other. The land acquisition officer has valued the cent value for Survey No.468/16B higher compared to the valuation given for the land comprised in Survey No.468/17.

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On the other hand, the Sub Court had given a higher cent value for the land comprised in Survey No.468/17. Even after carefully scanning the evidence on record, we are not able to see any substantial distinction between these two pieces of land. We therefore propose to treat both the survey numbers on the same footing.

5. P.W.2-Shalamudeen had purchased 3 ½ cents of land in the immediate vicinity on 02.06.2004. The acquisition proceedings took place in the year 2007. Therefore, the land covered under Ex.P3 can very much be taken into account. Shalamudeen had stated that he purchased the land at the rate of Rs.50,000/- per cent. But he conceded frankly that in the sale deed, only a sum of Rs.54,886/- has been made as the total sale consideration. What is said to have been paid cannot be taken into account. What is shown in the document as sale consideration alone can be considered. But then, it has been convincingly brought out on record that the lands in the immediate vicinity were acquired just 10 years later for a huge sum of Rs.1,63,701/- per cent. We note that the court below has not taken into account the future prospects. It has been consistently held by the Hon'ble Supreme Court that when the compensation for acquisition is made, future prospects and development will have to be taken note of.

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6. We therefore hold that fixing Rs.25,000/- per cent would meet the ends of justice and would definitely represent the fair market value for the land in question. The impugned award is accordingly modified. The compensation payable to the appellant will be fixed at the rate of Rs.25,000/- per cent. As regards the value of the trees, we do not propose to interfere. The appellant will be entitled to all the usual statutory benefits such as solatium, interest etc., This appeal suit is partly allowed. No costs.

[G.R.S., J.] [M.J.R., J.]
21.03.2025

Index : Yes / No
Internet : Yes/ No
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To:

1.The Sub Judge, Kuzhithurai, Kanyakumari District.

2.The Revenue Divisional Officer,
(Land Acquisition Officer)
Padmanabhapuram,
Kanyakumari District.

G.R.SWAMINATHAN, J

and

M.JOTHIRAMAN, J.

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Madurai Bench of Madras High Court, Madurai.

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