
(2007) 08 MAD CK 0211

In the Madras High Court

Case No : CRP (PD) No's. 355, 408 to 412 of 2004, 1787 of 2003, 591 of 2006, 111, 207 and 208, 215, 222 and 223, 973 of 2005, 79, 556 of 2006 and CRP (NPD) No. 1055 of 2005 and C.M.P No's. 2110 to 2114 of 2004 in CRP (PD) No. 408 of 2004; M.P (MD) No. 1 of 2006 i

Ramaih

APPELLANT

Vs

Special Thasildar, Adi-dravidar Welfare

RESPONDENT

Date of Decision : 30-08-2007

Acts Referred:

Constitution of India, 1950 — Article 31, 31(2), 31(a)

Land Acquisition Act, 1894 — Section 18, 32, 33

Tamil Nadu Court Fees and Suits Valuation Act, 1955 — Section 51, 8

Citation : (2007) 08 MAD CK 0211

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Advocate : A. Arumugam, For Petitioner in CRP (PD) Nos. 355/04 and 111 of 2005, Mr. K. Srinivasan For Petitioner in CRP (PD) Nos. 408 to 412/04, Mr. S. Kadarkarai For Petitioner in CRP (PD) No. 591/06, Mr. D. Chakravarthy for Petitioner in CRP (PD) Nos. 207 and 208/05, Mr. T.S.R. Venkataramana For Petitioner in CRP (PD) No. 215/04, Mr. D. Chakravarthy For Petitioner in CRP (PD) Nos. 222 and 223/05, Mr. M. Vaithyalingam For Petitioner in CRP (PD) No. 973/05, Ms. Sarvabhauman Associates For Petitioner in CRP (PD) Nos. 79 and 556/06, Mr. A. Sivaji For Petitioner in CRP (NPD) No. 1055/05 Mr. Ramasamy A.A.G., for the Appearing Parties

Final Decision : Dismissed

Judgement

S. Nagamuthu, J.—An important question of law as to whether in respect of appeals made u/s 9 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, (hereinafter called "the Harijan Welfare Act"), Court Fee is to be paid u/s 51 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 (hereinafter called "the Court Fees Act") or under Article 3 Schedule II of the Court Fees Act, is involved in these revisions. The learned counsel appearing for the petitioners in all these civil revision petitions as well as the learned Additional

Advocate General representing the respondent have advanced elaborate arguments.

2. In order to decide the said question of law, it is necessary to refer to the relevant provisions of various Acts, viz., (i) Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, (ii) the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (iii) the Tamil Nadu Slum Improvement (Acquisition of land) Act (IX of 1954), (Repealed by Tami Nadu Act XI of 1971) and (iv) Tamil Nadu Court Fees and Suits Valuation Act, 1955.

3. The Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, has been enacted to provide for acquisition of land for Harijan welfare Schemes in the State of Tamil Nadu. u/s 4 of the Act, the District Collector has been empowered to acquire land for public purposes under the Harijan welfare schemes and u/s 5 of the said Act, the land so acquired shall vest with the Government from the date of publication of notice u/s 4(1) of the Act. Section 6 of the Act, deals with the right of every person having any interest in any land acquired under the Act, to receive and be paid "an amount" as provided in the Act. Section 7 of the Act, is more relevant for the question involved in these revisions and therefore, the same is extracted below:-

"7. Determination of amount.-(1) The amount payable in respect of any land acquired under this Act shall be the market value of such land on the date of publication of the notice under sub Section (1) of Section 4.

(2) In addition to the market value of the land as provided above, the prescribed authority shall, in every case, award a sum of fifteen per centum on such market value as solatium in consideration of the compulsory nature of the acquisition.

(3) The prescribed authority shall, after holding an inquiry in the prescribed manner, determine, by order, the amount payable under sub-section (1). A copy of the said order shall be communicated to the owner of such land and every person interested therein."

(Emphasis supplied)

4. Section 8 of the Act, deals with the factors which shall not be taken into account while determining the amount. Section 9 of the Act, provides for appeal and the same is extracted below:-

"9. Appeal against order of amount determined : - Any person, who does not agree to the amount determined by the prescribed authority under sub-section (2) of section 7, may prefer an appeal to the court within such period as may be prescribed.

(Emphasis supplied)

5. Section 10 deals with apportionment of the amount determined and Section 11 of the Act, provides for tendering of the amount to the persons entitled thereto Section 11 of the Act is extracted below:-

"11. Payment of amount.-(1) After the amount has been determined, the prescribed authority shall tender payment of the amount to the persons entitled thereto and shall pay it to them-

(i) in a lump sum [in a case where it does not exceed two thousand rupees, and

(ii) in all other cases, in such number of equal annual instalments not exceeding five as may be determined by the prescribed authority and the amount of each such annual instalment shall not be less than two thousand rupees:

Provided that where the balance of the amount due in any instalment is less than two thousand rupees, only the actual amount so due shall be paid.]

(2) If the persons entitled to the amount do not consent to receive it or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the amount, or as to the apportionment of it, the prescribed authority shall deposit the amount in the Court, and the Court shall deal with the amount so deposited in the manner laid down in Sections 32 and 33 of the Land Acquisition Act, 1894 (Central Act I of 1894)."

(Emphasis supplied)

6. Section 12 of the Act, speaks of payment of interest and Section 13 of the Act, provides for appeal to the High Court, which is extracted below:-

"13. Appeal to High Court.-Subject to the provision of the Code of Civil Procedure, 1908 (Central Act V of 1908) applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, a second appeal shall lie to the High Court from any decision of the Court under this Act, if the amount as determined by the prescribed authority exceeds such sum as may be prescribed."

7. In all these revisions, the lands belonging to the petitioners were acquired by the respective District Collector under "Section 4 of the Act, and subsequently, proceedings were issued u/s 7 of the Act, determining the amount payable, in respect of those lands acquired from the petitioners. Since the petitioners did not agree with the amount so determined, they have preferred appeals u/s 9 of the Act, to the Court having jurisdiction.

Section 3(c) of the Act defines the Court as follows:-

"3.(c) "Court" means-

(i) in the City of [Chennai], the City Civil Court;

(ii) elsewhere, the Subordinate Judge's Court having jurisdiction, and if there is no such Subordinate Judge's Court, the District Court having jurisdiction;"

8. In all those appeals, the petitioners have chosen to pay Court Fees under Article 3 Schedule II of the Court Fees Act. When the said appeals were pending, cheque slips were issued by the Courts calling upon the petitioners to show cause

as to why Court Fee should not be collected from them as required u/s 51 of the Court Fees Act. The petitioners have opposed the same on the ground that Section 51 of the Court Fees Act, is not applicable in respect of those appeals as they cannot be equated to appeals against awards in respect of compensation. The Courts below have rejected the said objection and have directed the petitioners to pay Court Fees u/s 51 of the Court Fees Act. Challenging the same, these revisions have been filed.

9. Section 51 of the Court Fees Act is as follows:-

"51. Fee on memorandum of appeal against order relating to compensation.-The fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of property for public purposes shall be computed on the difference between the amount awarded and the amount claimed by the appellant."

10. In order to substantiate that Section 51 of the Court Fees Act, is not applicable in respect of the appeals made u/s 9 of the Act, and that Article 3 Schedule II alone is applicable, the learned counsel for the petitioners have raised the following points:-

(i) Section 51 of the Court Fees Act, is applicable only against an order relating to compensation and since in this case, there is no such order passed by the authority u/s 7 of the Act, Section 51 of the Court Fees Act, is not applicable.

(ii) Unless the amount is tendered u/s 11 of the Act, there is no order binding the parties and so, Section 51 is not applicable.

(iii) Assuming that what is passed u/s 7 of the Act, is an order, since it does not relate to any compensation under the Act, Section 51 of the Court Fees Act, is not applicable.

(iv) Though the terminology used in Section 9 of the Act is "Appeal" in the eye of law, what is filed u/s 9 of the Act, is not an appeal in its strict sense in the context in which it is used, and the same is only a petition and therefore, Section 51 of the Court Fees Act, is not applicable.

(v) Since, no Court Fees is required to be paid by the land owner, when a reference is made to the Court u/s 18 of the Land Acquisition Act, it will be arbitrary to direct similarly placed persons whose lands have been acquired under the Harijan Welfare Act, to pay Court Fees u/s 51 of the Court Fees Act.

11. In answer to the above points, Mr. Ramasamy, learned Additional Advocate General has submitted the following contentions:-

(i) A plain reading of Section 9 of the Harijan Welfare Act, would clearly indicate that what is made to the Court is only an appeal and therefore, by giving a plain meaning to the provision, it has to be construed that it is very much an appeal, requiring Court Fees to be paid u/s 51 of the Court Fees Act.

(ii) u/s 7 of the Harijan Welfare Act, the authority is required to determine the amount payable in respect of the land after holding necessary inquiry and therefore, the same is an order.

(iii) Though the word "compensation" has not been employed either in Section 6 or in Section 7 or in Section 9 of the Harijan Welfare Act, what actually paid to the land owner is only compensation which is equivalent to the market value added to a Solatium and therefore, the same squarely falls within the ambit of Section 51 of the Court Fees Act.

(iv) Section 18 of the land acquisition Act, cannot be equated to Section 9 of the Harijan Welfare Act, since u/s 18 of the Land Acquisition Act, a reference alone is made without any order being passed by the authority and the award is ultimately made only by the Court whereas under the Harijan Welfare Act, the amount is determined by the authority and that is why there is no reference provided in the Act, to the Court by the authority and instead a right of appeal has been provided to the land owner. Thus, it cannot be argued that what is applicable to Section 18 of the land Acquisition Act, is applicable to Section 11 of the Harijan Welfare Act.

(v) Lastly, the learned counsel for the petitioners as well as the learned Additional Advocate General referred to the similar provisions found in the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 Tamil Nadu Slum Improvement Acquisition of Land Act, 1954 and the Tamil Nadu Requisitioning and Acquisition of Immovable Property Act, 1952 and advanced elaborate arguments to substantiate their respective points and also cited various judgments of the Hon"ble Supreme Court as well as this Court.

12. Now let me consider the points urged by the learned counsel for both parties. A close analysis of the provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, would show that nowhere the word "compensation" has been employed. Similarly, in the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 also the word "compensation" has not been employed. But in the other enactments such as, the Land Acquisition Act, 1894, the Tamil Nadu Requisitioning and Acquisition of Immovable property Act, 1952, the Tamil Nadu Slum Areas (Improvement & Clearance) Act, 1971 and the Tamil Nadu Slum Improvement (Acquisition of Land) Act, 1954 (since repealed), the word "compensation" has been employed.

13. Mr. T.S.R. Venkataramana, learned counsel appearing for the petitioner in one of the revisions, would submit that though in some enactments, both the Parliament as well as the State Legislature have used the word "compensation" in the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1997 and the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, the State legislature has made a deviation to use the word "amount" instead of "compensation" and the said deviation is with some purpose which indicates the legislative intention that what is paid under these two enactments is not

compensation and it is only an amount which is determined under the Act.

14. Mr. A. Arumugam, learned counsel appearing for the petitioner in one of the revisions, would submit that prior to the 25th amendment of Constitution of India, under Article 31 of the Constitution of India, it was provided that "no property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation of the property so acquired or requisitioned."

15. According to the learned counsel Mr. A. Arumugam, Article 31(2) was repealed by the 25th amendment to the Constitution, and so, in the enactments which came into being after the said amendment, the word "compensation" has not been employed. However, Article 31 (a) as if existed prior to the amendment was restored by means of 44th amendment.

16. The learned Additional Advocate General would submit that the different word employed in the said provision would not make any difference since in essence what is paid to the land owner is nothing but compensation and there is no different legislative intention behind the same.

17. I have given very careful consideration to the above submissions.

18. According to the Black's Law Dictionary, Seventh Edition, the meaning of the words just compensation, is "Under the Fifth Amendment, a fair payment by the government for property it has taken under eminent domain-usu the property's fair market value, so that the owner is no worse off after the taking.- Also termed adequate compensation; due compensation; land damages." As per P. Ramanatha Aiyer "the Law Lexicon" the meaning of the words just compensation, is an act forbidding the taking of private property without just compensation, means "that the equivalent to be rendered for the property taken shall be real, substantial, full, and ample.

19. When a similar question arose while interpreting the Madras Requisitioning and Acquisition of Immovable property Act, (XLII of 1956), a Division Bench of this Court in Y. Venkanna Choudary Vs. Government of India, by Military Estates Officer and Another, has held as follows:-

"4. It is argued for the appellant that though the Requisitioning and Acquisition of Immovable Property Act speaks of compensation for requisitioning, in fact, such compensation is but rent and therefore the proper section in the Court-fees Act to be applied is section 43. We are unable to accept this stand because requisitioning under the Act does not involve bringing into existence the relationship of landlord and tenant. Section 43 therefore cannot be applied to the appeal memorandum."

20. A reading of the above observations of the Division Bench would show that under the Requisitioning and Acquisition of Immovable Property Act, though in respect of a property not acquired but only requisitioned where the right to use the property alone is taken by the Government by using its eminent domain and

though what is paid by the Government to the land owner of the property is literally rent, for the purposes of the Court fees, the same is to be construed as compensation and so an appeal made under the said Act requires Court fees to be paid u/s 51 of the Act.

21. Applying the same analogy and going by the Dictionary meaning, though the word "compensation" has not been employed in this Act, may be because of the 25th amendment of the Constitution of India and though the market value along with the amount of solatium is paid to the land owner, in my considered opinion, the said value of the property equivalent to the market value which is determined by the authority should be construed to be compensation.

22. Another Division Bench of this Court while dealing with the Land Acquisition Act, in *Moulvi Abun Naser Khuthubuddin Syed Shah Mohammed Rakher Khadiri Vs. The Special Tahsildar for Land Acquisition (N.H. Scheme), Sathuvachari*, has held that "Solatium" will not form part of the compensation and therefore, while preferring an appeal under the said Act, Court Fee need not be paid u/s 51 of the Act for the amount which is claimed towards Solatium. Therefore, it is manifestly clear that what is determined to be paid to the owner of the property under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, is "compensation" but at the same time, it does not include Solatium.

23. The above conclusion may appear as if there is no doubt that the Court Fee is to be necessarily paid u/s 51 of the Act. But it is not so. The learned counsel for the petitioners would rely on the judgment of this Court in *S. Appavoo Mudaliar v. Special Deputy Collector for Land Acquisition, Town Planning* (1964 (2) M.L.J 487 = (1965) 78 L.W 333) wherein, the Madras Slum Improvement (Acquisition of Land) Act (XI of 1954) came to be dealt with. At the outset, it needs to be seen that the provisions of the Madras Slum Improvement (Acquisition of Land) Act, (hereinafter called as "the Slum Improvement Act") and the Provisions of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act are more or less in pari materia. In the said judgment, an appeal made u/s 6 (4)(a) of the Slum Improvement Act, has been dealt with. Section (6) (4) (a) of the Slum Improvement Act, provides as follows:-

"Any person who does not agree to the amount of the net average annual income or to the amount that would have been payable as compensation under the Land Acquisition Act, 1894, as determined by the prescribed authority under sub-section (3) and claims a sum in excess of that amount, may prefer an appeal to the Court within thirty days from the date specified in the notice referred to in the sub-section."

24. In Pari materia provision in the Harijan Welfare Act, is Section 9 which provides that, any person who does not agree with the amount determined by the prescribed authority under Sub Section 2 of Section 7, may prefer an appeal to the Court within such period as may be prescribed.

25. Determination of the amount of compensation is provided in Section 6 of the

Slum Improvement Act, which lays down that the amount payable as compensation shall be lesser of the two amounts (i) an amount equal to five times the net annual average income derived from such land during the period of five consecutive years immediately preceding publication of the notice, (ii) the amount that would have been payable as compensation under the Land Acquisition Act, 1894, in respect of such land, had such land been acquired under that Act. The net average annual income has to be calculated in the manner and in accordance with the principles set out in the Schedule to the Act.

26. Similarly in Section 7 of the Harijan Welfare Act, the mode of determination of amount payable in respect any land to the owner has been dealt with.

27. Section 8(1) of the Slum Improvement Act, deals with the payment of compensation or deposit of the amount into Court, which reads as follows:-

"The prescribed authority shall tender payment of the compensation to the persons entitled thereto and shall pay it to them."

Such a provision in pari materia is found in Section 11 of the Harijan Welfare Act.

28. After analysing all the above provisions of the Slum Improvement Act, the learned Judge has answered the question as to what is the stage, at which the amount payable to the land owner becomes an award. The learned Judge has held that when the amount of compensation is determined u/s 6 (3) of the Slum Improvement Act, there is no award made and the order becomes an award when the same is offered by the authority to the land owner u/s 8(1) of the Act. The conclusion of the learned Judge as found in this regard is as follows:-

"I am unable to accept the contention on behalf of the Revenue. As I said, the expressions have to be given their normal meaning. When a provision speaks of an amount awarded, it means that a certain sum has been offered as compensation to the person interested. Had the Slum Improvement Act, made no provision for the making of such an offer independently of the provisions contained in section 6 of the Act, the argument on behalf of the Revenue may have some force. But, as I have pointed out, section 8(1) of the Act specifically provides for offering the amount to the persons interested. That is the stage at which the amount is awarded. It cannot be said, therefore, that the mere determination of the net average annual income or some other figure, which is but a step towards the ascertainment of the quantum of compensation is the same thing as an award of the amount of compensation."

29. Similarly, in the Harijan Welfare Act, also when the amount is determined u/s 7 of the Harijan Welfare Act, there is no offer made and therefore, it does not become an award. When the authority tenders payment of amount to the persons entitled thereto as required u/s 11 of the Harijan Welfare Act, it becomes an award. Until such a tender is made u/s 11 of the Harijan Welfare Act, as held by this Court in the above cited judgment, in the eye of law, there is no award of compensation at all.

30. If any tender made u/s 11 of the Harijan Welfare Act is challenged, it may be said that an award of compensation is under challenge. But here, u/s 9 of the Harijan Welfare Act, it is only the amount determined which is challenged by way of appeal and not an award.

31. To apply Section 51 of the Court Fees Act, it should be satisfied that the appeal is against an order relating to compensation. Since as I have held that what is challenged by way of appeal u/s 9 of the Harijan Welfare Act, is neither an order nor an award, section 51 of the Court Fees Act, has got no application in this case. Similar view has been taken by the learned Judge in the above cited case also.

32. The learned counsel for the petitioners have placed reliance on the judgment in *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another*, wherein, the Hon''ble Supreme Court had an occasion to deal with Section 18 of the Land Acquisition Act, 1894 and also declared, whether the said reference can be construed as an award or not. The Hon''ble Supreme Court has answered the same in the negative and the relevant findings are extracted below:-

"(1) A reference u/s 18 is not an appeal against the award and the Court cannot take into account the material relied upon by the Land Acquisition Officer in his Award unless the same material is produced and proved before the court.

(2) So also the Award of the Land Acquisition Officer is not to be treated as a judgment of the trial court open or exposed to challenge before the Court hearing the Reference. It is merely an offer made by the Land Acquisition Officer and the material utilised by him for making his valuation cannot be utilised by the Court unless produced and proved before it. It is not the function of the court to sit in appeal against the Award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition Officer, as if it were an appellate Court.

(3) The court has to treat the reference as an original proceedings before it and determine the market value afresh on the basis of the material produced before it.

(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the Court. Of course the materials placed and proved by the other side can also be taken into account for this purpose."

33. As held by the Hon''ble Supreme Court in the above cited judgment, the claimant must be treated to be in the position of a plaintiff and to produce materials in support of his claim for enhancement of compensation. When the reference is dealt with by the Court under the Land Acquisition Act, during the said enquiry, according to the Hon''ble Supreme Court, the materials placed and proved by the other side should also be taken into account for the purpose of

determining the quantum of amount of compensation.

34. A close reading of the last paragraph of the above cited judgment of the Hon''ble Supreme Court would show that before the Court of law, the claimant is required to establish his case by producing evidence and the other party namely, authority under the said Act, is also required to produce materials in support of his case. Ultimately, the Court only decides the amount.

35. If this principle is applied to the provisions of the Harijan Welfare Act, when the Authority determines the amount u/s 7 of the Act, claimant is not put in the position of the plaintiff. u/s 7 of the Harijan Welfare Act, determination is made by the authority himself and it is not done either by the Arbitrator or by the Court who shall consider the claims of the rival parties to determine the amount. So, as per the above principle laid down by the Hon''ble Supreme Court, for the amount of compensation to become either an award or an order, it should be passed by an independent Agency like an Arbitrator or Court after hearing both the claimant's case and that of the authority who has acquired the land. Since that is not done, u/s 7 of the Harijan Welfare Act, I have to necessarily hold that at no stretch of imagination, determination of amount made u/s 7 of the Harijan Welfare Act, is either an award or an order so as to fall within the ambit of Section 51 of the Court Fees Act. It is also to be remembered that a Division Bench of this Court in *The Special Tahsildar (Land Acquisition) The Special Tahsildar (Land Acquisition) Krishna Water Supply Project Scheme, Tiruvallur Vs. G. Natesan and 13 others*, has also taken a similar view that a reference u/s 18 of the Land Acquisition Act, is not an appeal and therefore, Section 51 of the Court Fees act is not applicable.

36. The next contention of the learned Additional Advocate General is that, comparison of Section 18 of the Land Acquisition Act, and an appeal made u/s 9 of the Harijan Welfare Act, should not be made, in respect of the Court Fees to be paid. According to him, under the Land Acquisition Act, the land owner is required to give a claim petition to the authority concerned who has to pass an award, but under the Harijan Welfare Act, such a reference is not provided for and instead, the land owner is required to make an appeal to the Court. In my considered opinion, though the word "appeal" has been employed in Section 9 of the Harijan Welfare Act, in the eye of law, it will not be an appeal as provided u/s 51 of the Court Fees Act. When a person whose land has been acquired under the Land Acquisition Act, is not required to pay Court Fees u/s 51 of the Court Fees Act, there cannot be any reason to require a person who makes a similar request to the Court to pay Court Fees u/s 51 of the Court Fees Act, when his land has been acquired under the Harijan Welfare Act. When these two persons are similarly situated, there can be no reason why the provisions of the Harijan Welfare Act and Section 51 of the Court Fees Act are to be so interpreted that it casts burden upon the one and not upon the other. The learned Judge in *Appavoo Mudaliar v. Spl. Dy. Collector for Land Acquisition, Town Planning Schemes, Madras* (cited supra), has also discussed elaborately about the same and has

held as follows:-

".....If it is the view that section 51 applied to the instant case and the person interested should pay Court-fee on the difference between the amount awardable as compensation on the basis of five times the net average annual income as determined by the prescribed authority and the amount claimed by the petitioner, then a person whose property is being acquired under the Slum Improvement Act is called upon to pay Court-fee, while a person whose property is acquired under the Land Acquisition Act has to pay no Court-fee for an adjudication about the quantum of compensation. The two persons are similarly situated and there is no reason why the provision should be so interpreted that it casts a burden upon the one and not upon the other. This also seems to me to be relevant to construing the precise scope of section 51 of the Court-fees Act."

37. In view of the above positions, I have to necessarily hold that Section 51 of the Court Fees Act, is not applicable for an appeal made u/s 9 of the Harijan Welfare Act.

38. The learned Additional Advocate General would rely on the judgment in C.G. Ghanshamdas and Others Vs. Collector of Madras, the Hon"ble Supreme Court has dealt with the provisions of the Requisitioning and Acquisition of Immovable property Act, (hereinafter referred to as "the Requisitioning and Acquisition Act") and also held that in respect of any appeal made against the award of compensation, Court Fees to be paid shall be only u/s 51 of the Court Fees Act. But, a close comparison of the provisions of the Court Fees Act, with the Harijan Welfare Act is made, it could be seen that the provisions are neither in pari materia nor analogous under these two enactments. Under the Requisitioning and Acquisition of Immovable Property Act 1952, when there is no agreement between the parties on the question of compensation payable, the said question is referred to the an Arbitrator u/s 8 of the Requisitioning and Acquisition Act. It is for the Arbitrator the Judicial Officer to pass an award. If any person is aggrieved by the said award, an appeal is to be made under the provisions of the Requisitioning and Acquisition Act. When such an appeal is preferred, Court Fee is to be paid u/s 51 of the Court Fees Act.

39. In my considered opinion, the law declared by the Hon"ble Supreme Court in the said judgment, has got no application to the facts of the present case. In that case, under the Requisitioning and Acquisition Act, there can be no doubt that an award is passed by the Arbitrator and since the challenge is made against the said award, Court Fees is necessarily to be paid u/s 51 of the Court Fees Act. But, as I have held in the earlier paragraphs, since, no award or order is passed by the authority, u/s 7 of the Harijan Welfare Act, there is no question of any appeal challenging an award of compensation arises and therefore, Section 51 of the Court Fees Act is not applicable.

40. In conclusion, I have to hold that for an appeal filed u/s 9 of the Harijan Welfare Act, appropriate Court Fees to be paid is not u/s 51 of the Court Fees

Act, but, only under Article 3 Schedule II of the Court Fees Act. In the result, all the civil revision petitions are allowed. No costs. Consequently, connected C.M.Ps and M. Ps are also closed. Before parting of the order, I have to state that the Tamil Nadu Slum Improvement (Acquisition of land) Act (IX of 1954), (Repealed by Tami Nadu Act XI of 1971). The provisions of the said Act are in pari materia to the provisions of the Harijan Welfare Act. Under the said Act, an appeal has been provided against the determination of compensation u/s 22 of the Act and in my considered opinion, if any appeal made under the said provision also Court Fees to be paid only under Article 3 Schedule II of the Court Fees Act.