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**(2004) 06 MAD CK 0088**

**In the Madras High Court**

**Case No :** Appeal Suit No"s. 1098 and 1354 of 1995

Special Tahsildar (LA), Adi Dravidar Welfare

APPELLANT

Vs

Munirathinamma and Others

RESPONDENT

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**Date of Decision :** 25-06-2004

**Acts Referred:**

Land Acquisition Act, 1894 — Section 4(1), 54

**Citation :** (2004) 3 MLJ 574

**Hon'ble Judges :** S. Sardar Zackria Hussain, J;P. Sathasivam, J

**Bench :** Division Bench

**Advocate :** R. Ashokan, Addl. Govt. Pleader in A.S. 1098/95, Shivakumar, for C.R. Muralidharan, in A.S.No. 1354/95, for the Appellant; R. Ashokan, Addl. Govt. Pleader in A.S. No. 1354/95, Shivakumar, for C.R. Muralidharan in A.S. 1098/95, for the Respondent

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## **Judgement**

P. Sathasivam, J.—Aggrieved by the judgement and decree of the learned Subordinate Judge, Krishnagiri dated 6-12-94, made in L.A.O.P. No. 222 of 92, Special Tahsildar (Land Acquisition), Adi Dravidar Welfare, Krishnagiri, has filed A.S.No. 1098/95. Not satisfied with the said decision, the claimants have filed A.S.No. 1354/95 seeking more compensation. Since both the appeals arise from the very same order of the learned Subordinate Judge, they are being disposed of by the following common judgement.

2. An extent of 1.05 Acres of punja land in Survey No. 238/5B in Hosapuram village, Thenkanikottai Taluk were acquired by the Government for the purpose of providing house sites for Adi-Dravidar and Scheduled Caste people of Hosapuram village. For the said purpose, a notification u/s 4(1) of the Land Acquisition Act was published in Tamil Nadu Government Gazette dated 27-9-89. The Land Acquisition Officer, after complying with the formalities, passed an award in Award No. 7/91-92 on 31-1-92 in and by which he fixed compensation at the rate of Rs. 17,778/- per acre. Aggrieved by the said amount, at the instance of the land owners, the matter was referred to Sub Court, Krishnagiri

which resulted in L.A.O.P. No. 222/92. Before the Sub Court, first claimant was examined as C.W.1 and one Thiagarajan as C.W.2, besides marking Exs. C-1 to C-3 in support of their claim for higher compensation. No one was examined on behalf of the Referring Officer, however, Exs. R-1 to R-4 were marked. The learned Subordinate Judge on appreciation of evidence, both oral and documentary, basing reliance on Ex.C-1 dated 16-6-87, after arriving a figure of Rs. 86,865/-per Acre and deducting 25 per cent towards development charges, fixed compensation at the rate of Rs. 65,000/- per acre and also granted other statutory amounts. Questioning the same, both the Land Acquisition Officer as well as the land owners filed these appeals.

3. Heard learned Additional Government Pleader for the appellant/State and the learned counsel for the respondent/claimants.

4. The only point for consideration in both the appeals is, whether the learned Subordinate Judge is right in fixing compensation at the rate of Rs. 65,000/- per acre and the claimants have made out a case for any further enhancement as claimed?

5. It is seen from the records that in support of their claim for higher compensation, apart from their oral evidence as C.Ws.1 and 2, the claimants have produced Exs. C-1 to C-3. Ex.C-1 is the sale-deed dated 16-6-87. An extent 1305 sq. ft. of land in Survey No. 238 were sold for Rs. 2,600/-. The above said sale transaction had taken place two years prior to 4(1) Notification. Since the land under Ex.C-1 and the acquired land lying in the very same survey No. , namely, 238 both are comparable in all aspects, the learned Subordinate judge accepted the said document and fixed the value at the rate of Rs.86,865/-. Learned counsel appearing for the claimants would point out that apart from Ex.C-1, the claimants have also produced Ex.C-2 which is a sale deed dated 13-11-87 which is also prior to 4(1) Notification, wherein an extent of 2208 sq. ft. of land in Survey No. 238 were sold for Rs. 7,500/-. The learned Subordinate Judge in para 10 of his judgement has considered Exs. C-1 and C-2 and on considering Ex.C-2 has arrived a conclusion that if Ex.C-2 is considered, the value per acre comes to Rs. 1,48,098/- It is also not in dispute that the land covered under Ex. C-2 lies in the very same survey number, namely 238. However, in paragraph 12 it is stated that Ex. C-2 relates not only to the land, but also a building therein. Learned counsel for the claimants points out that land alone (2208 sq.ft.) was sold under Ex.C-2 and the observation made by the learned Subordinate Judge at para 12 of his order that Ex.C-2 consists land and building is factually incorrect. In the light of the said controversy, we verified Ex.C-2. The reading of the above document shows that an extent of 2208 sq.ft. of land alone was sold under Ex.C-2 and there is no reference to any building as observed by the learned Subordinate Judge. We are satisfied that the observation made in para 12 with reference to Ex. C-2 is factually incorrect. We have already referred to the fact that Ex. C-2 transaction had taken place on 13-11-87 well prior to 4 (1) notification. The said land also lies in the very same

survey number, namely, 238. In such a circumstance, as rightly argued by the learned counsel for the claimants, there is no reason to reject Ex.C-2 in arriving a compensation for the acquired land. Though learned Additional Government Pleader has submitted that the amount arrived by the learned Subordinate Judge based on Ex.C-1 is excessive and unreasonable, in the light of the above discussion, we are unable to accept the said contention. Inasmuch as when compared to Exs. C-1 and C-2, Ex.C-2 alone is preferable on all aspects, we are of the view that by applying the sale transaction covered under Ex.C-2, we fix the value for the acquired land at the rate of Rs.1,48,098/- which is rounded off to Rs. 1,50,000/- per acre. Though the learned Subordinate Judge has deducted 25 per cent, in view of the stand taken by the State, as reflected in the Memorandum of grounds of appeal filed by them, we deduct 30 per cent towards development charges from and out of the amount of Rs. 1,50,000/- fixed earlier. To this extent, we modify the decree of the Subordinate Judge. In other respects relating to statutory amounts, we confirm the conclusion arrived by the trial Court.

6. Net result, A.S. No. 1098/95 is dismissed. A.S. No. 1354/95 is allowed in part to the extent mentioned above. No costs.