

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN

AND

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.Nos.1675 to 1679 of 2014
& M.P.No.1 of 2014 in each W.A.
and M.P.No.1 of 2015 in each W.A.

G.Krishna Raja Reddiar .. Appellant in W.A.No.1675 of 2014
K.Ethirajan .. Appellant in W.A.No.1676 of 2014
Smt.K.Lalitha Ammal .. Appellant in W.A.No.1677 of 2014
K.Veluswamy .. Appellant in W.A.No.1678 of 2014
K.Ramasundaram .. Appellant in W.A.No.1679 of 2014

Vs.

1. The District Collector,
Rajaji Salai,
Chennai-600 001.
2. The Land Acquisition Officer-cum-
Special Tahsildar,
MRTS-II Extension,
Mylapore,
Chennai-600 004. .. Respondents in all the Writ Appeals

Writ Appeal No.1675 of 2014 filed under Clause 15 of the Letters Patent against the order dated 19.11.2014 made in W.P.No.30173 of 2014 on the file of this Court.

Writ Appeal No.1676 of 2014 filed under Clause 15 of the Letters Patent against the order dated 19.11.2014 made in W.P.No.30174 of 2014 on the file of this Court.

Writ Appeal No.1677 of 2014 filed under Clause 15 of the Letters Patent against the order dated 19.11.2014 made in W.P.No.30175 of 2014 on the file of this Court.

Writ Appeal No.1678 of 2014 filed under Clause 15 of the Letters Patent against the order dated 19.11.2014 made in W.P.No.30176 of 2014 on the file of this Court.

Writ Appeal No.1679 of 2014 filed under Clause 15 of the Letters Patent against the order dated 19.11.2014 made in W.P.No.30177 of 2014 on the file of this Court.

Writ of certiorarified mandamus Calling for the records of the 2nd respondent herein relating to the Award No.5 of 2014 dt 15.9.2014 communicated to the petitioner under Sec. 12 (2) of the Land Acquisition Act 1894 vide its Notice Na. Ka. No.2/2010 dt 18.9.2014 and quash the same and consequently direct the 2nd respondent herein to determine the compensation in respect of petitioners land of an extent of 2,626 sq.ft, 1,620 sq.ft. 1,647 sq.ft. 2,163 sq.ft./201 sq. meters and 1,270 sq.ft. respectively comprised in Survey No.46/1, 49/2, 45/2, 3/5/1 & 48/2 respectively in Adambakkam Village Chennai under the provisions of the new Act viz. Land Acquisition Rehabilitation and Re-settlement Act 2013 (in W.ps.Nos.30173 to 30177/14)

For appellants : Ms.AL.Ganthimathi
For respondents : Mr.R.Rajeswaran, Spl.G.P. for RR-1 & 2
Mr.P.T.Ramkumar for proposed
impleading respondents in
M.P.No.1 of 2015 in each Writ Appeal

COMMON JUDGMENT

(Judgment of the Court was delivered by V.Dhanapalan,J)

By consent of the learned counsel appearing for the parties, the Writ Appeals themselves are taken up for disposal.

2. Heard Ms.AL.Ganthimathi, learned counsel for the appellants, Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.P.T.Ramkumar, learned counsel appearing for the proposed impleading respondent.

3. In the separate orders under challenge, dated 19.11.2014 in W.P.Nos.30173 to 30177 of 2014, the learned single Judge considered the case of the appellants/writ petitioners who filed the Writ Petitions under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus to call for the records of the second respondent relating to the Award No.5 of 2014, dated 15.09.2014, communicated to the writ petitioners under Section 12(2) of the Land Acquisition Act, 1894, vide its notices in Na.Ka.No.2/2010, dated 18.09.2014 and to quash the same and consequently to direct the second respondent to determine the compensation in respect of the writ petitioners lands in question

under the provisions of the new Act, namely Land Acquisition Rehabilitation and Re-settlement Act, 2013.

4. What was challenged before the Writ Court was the Award passed by the second respondent in Award No.5 of 2014, dated 15.09.2014 and the consequential notices, dated 18.09.2014, seeking to quash the same. But the learned single Judge, after looking into the said prayer and also for consequential direction for determination of the compensation under the new Act, has taken a view that even though the appellants/writ petitioners have submitted their respective representations to the second respondent on 04.10.2014/19.09.2014, no action had been taken on the same to dispose of the same, which prompted the writ petitioners to move the Writ Court for the above prayer. Accordingly, the learned single Judge disposed of the Writ Petitions with a direction to the second respondent to consider the said representations of the writ petitioners and to pass orders on the same on merits and in accordance with law, after issuing notice to the writ petitioners and after conducting enquiry, within a period of eight weeks from the date of receipt of a copy of the orders in the Writ Petitions.

5. Learned counsel for the appellants/writ petitioners raised a strong plea that the learned single Judge, while disposing of the abovesaid Writ Petitions, directed the second respondent to consider the said representations, which is erroneous, incorrect and unsustainable and the same deserves to be set aside, as the learned single Judge has not gone into the merits of the matter. She further submitted that when the prayer of the writ petitioners is for issuance of Writs of Certiorarified Mandamus to quash the impugned Award and the consequential notices communicated to them under the relevant provision of law with a further prayer to determine the compensation based on the new Act, the learned single Judge ought not to have just directed the second respondent to consider the said representations, more particularly, when there was no plea of the parties with regard to the disposal of the said representations. She further made a consistent plea that there was no such request before the Writ Court seeking for a direction to the second respondent to consider the said representation.

6. On the other hand, learned Special Government Pleader appearing for respondents 1 and 2 would contend that the direction issued by the learned Single Judge to consider the representations of the writ petitioners is no way contrary to law. However, he admitted that for quashing of the award, the prayer for a writ of certiorarified mandamus has been made and the learned Single Judge has simply disposed of the Writ Petitions with a direction to the 2nd respondent to consider the representations of the writ petitioners and he would further submit that if any remand is made, they may be given the right to contest the matter.

7. When issuance of Writs of Certiorarified Mandamus had been sought for by the writ petitioners, it is the duty of the Writ Court to consider such a prayer by going into the merits of the matter and to pass orders in accordance with law and it is not for the Writ Court to direct the second respondent to consider the said representations, especially when such a request was not sought for by either of the parties. In our considered opinion, the impugned orders passed by the learned single Judge are non-speaking, without application of mind and the same are cryptic in nature, as no reasons had been assigned for to give such a direction and that the merits of the matter had not at all been discussed. Therefore, the matter requires re-consideration by the Writ Court.

8. Accordingly, we set aside the impugned orders passed by the learned single Judge and remit the matters back to the Writ Court for fresh consideration, wherein, the learned counsel for the parties are at liberty to advance all their pleas and arguments and the Writ Court shall pass orders on the Writ Petitions after hearing all the parties, including the proposed impleading respondent and the impleading respondent is at liberty to move impleading petitions before the Writ Court, which shall also be looked into by the Writ Court, before disposing of the Writ Petitions.

9. In the light of the submission made by the learned counsel for the parties that the project in question is a prestigious one for the City of Chennai and any delay would cause serious prejudice to them, the matter needs to be considered by the learned single Judge as an urgent one. In that view of the matter, we request the learned single Judge to take up the Writ Petitions on top priority and dispose of the same including the impleading petitions, on merits and in accordance with law, expeditiously.

10. With the above observations and directions, the Writ Appeals are disposed of. No costs. The injunction petitions are closed and the interim order granted pending the Writ Appeals, is vacated. The Miscellaneous Petitions for impleading the parties, are also closed, with liberty to the impleading/proposed party to move the Writ Court by filing impleading petitions.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

CS

To :

1. The District Collector,
Rajaji Salai, Chennai-600 001.

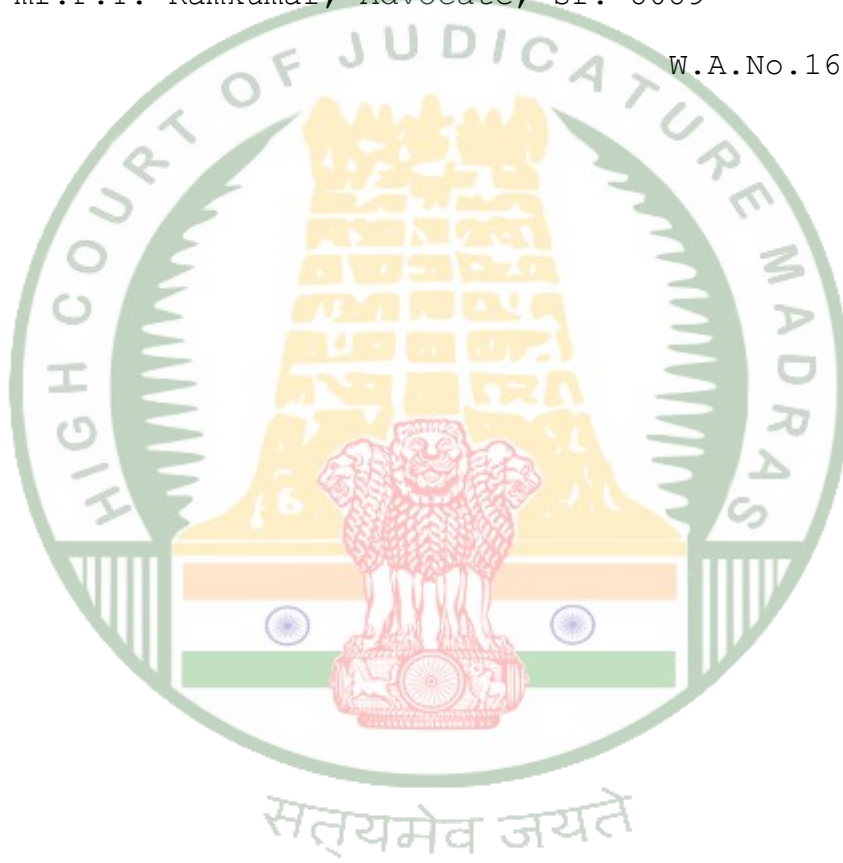
2. The Land Acquisition Officer-cum-
Special Tahsildar,
MRTS-II Extension,
Mylapore, Chennai-600 004. .

5 ccs to M/s.AL. Gandhimathi, sr. 8312

1 cc to mr.P.T. Ramkumar, Advocate, sr. 8089

W.A.No.1675 to 1679 of 2014

kk 17/2



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