

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON:28.08.2015

DATED:20.01.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.40047 of 2002

1.T.Arumugam
2.A.Velayutham
3.V.Ruckani
4.V.Sachithanantham
5.M.Ahmed
6.A.Parisamma
7.M.Rani
8.S.P.Natarajan
9.S.Mallika

... Petitioners

Vs.

1.The District Collector,
Erode at Erode District.

2.The Special Tahsildar (L.Acl),
Neighbourhood Scheme,
Surampatty Four Road,
Surampatty,
Erode.

3.The Executive Engineer and Administrative Officer,
Erode Housing Unit,
Tamil Nadu Housing Board,
Erode - 638 009.

(R3-Impleaded as per order of Court dated 11.02.06
made in W.P.M.P.No.3096 of 2006)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to refer the Award No.1/98 in so far relates to S.No.503/2 in Erode 'C' Village, Erode Taluk and District to the competent Civil Court as per under section 18 of the Land Acquisition Act.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.M.S.Ramesh
(AGP for R1 and R2)
No Appearance for R3

O R D E R

The 1st petitioner herein filing this affidavit for himself and also on behalf of the petitioners 2 to 9, who in common purchased the lands in survey No.503/2 in Erode Village to the extent of 1.99 acres in the years from 1989 to 1996 and on from 1989 to 1999 himself and other petitioners who enjoyed the said lands, but subsequently the respondents acquired the lands that were belonging to us along with others and entreated this Court to permit the petitioners to file this writ petition for the first time for the relief sought for in this writ petition.

2. The petitioner also states that since their lands were acquired by the respondents in one and the same notification and the award also passed in one and the same order and the same was not referred under section 18 of the Land Acquisition Act to Civil Court and hence, they are commonly aggrieved by the action of the respondents to avoid multiplicity of writ proceedings.

3. The petitioner further submits that after purchasing the land himself and other petitioners who applied for change of name in Chitta, Adangal and subsequently, the said land was acquired by the respondents without affording us any opportunity or notice when though their names were found in the Award Order. But no notice has been served on us and the same was admitted by the respondents in the Award Order. The award passed by the 2nd respondent in Award No.1 of 1998 in the above said Award, the 2nd respondent has clearly stated that in so far, it relates to S.No.503/2, the 2nd respondent was not able to find out the same address and stated in the award that they had not appeared. Hence, the respondents herein have deposited the Award amount into the Court under section 30 of the Land Acquisition

Act. But, no notice has been issued to the petitioners as contemplated under section 5-A of the Land Acquisition Act, till the Award passed by the 2nd respondent and also the respondents did not take any steps to issue notice to us either under section 5-A and 12 (2) of Land Acquisition Act. Hence, they were not aware of the said award proceedings.

4. The petitioner further submits that in the month of June 2002, they came to know about the said acquisition proceedings, immediately, they verified the entire proceedings on 24.06.2002, they made representations before the respondents and requested them to refer the matter to Civil Court as per section 18 of the Land Acquisition Act, but the respondents herein have not at all passed any orders in regards to making reference under section 18(1) of the Land Acquisition Act, above, the said award has been referred under section 30 of the Land Acquisition Act to the Subordinate Court, Erode. But, till today, no deposits were made in the Civil Court by the respondents.

5. The highly competent counsel Mr.C.Prakasam, submits that the petitioner's lands were acquired by the respondents. However, the compensation amount has not been paid, since the 2nd respondent passed awards in award No.1/98. Further, the 2nd respondent had not conducted enquiry under section 5(A) of the Act.

6. The highly competent Additional Government Pleader appearing for the respondents 1 and 2 submits that the 2nd respondent had acquired the petitioner's lands for neighbourhood scheme after adopting necessary legal formalities under the Old Act. The award had been passed after notices were served on the petitioners. The very competent counsel further submits that the compensation amount had been assessed and deposited into the Civil Court. Therefore, the petitioners are at liberty to withdraw their respective compensation amount before the concerned Subordinate Court. As such, the prayer in the writ petition is not maintainable as the Award No.1/98 had been referred to the Subordinate Court.

7. On considering the facts and circumstances of the case and arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the learned Government Pleader informed to this Court that the Award No.1/98 had already been referred to the Competent Civil Court. Hence, the above writ petition is dismissed. However, this Court directs the 2nd respondent herein to send proper communication to the

petitioners regarding the deposit of compensation amount particulars within a period of fifteen days from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Erode at Erode District.
- 2.The Special Tahsildar (L.Acl),
Neighbourhood Scheme,
Surampatty Four Road,
Surampatty,
Erode.
- 3.The Executive Engineer and Administrative Officer,
Erode Housing Unit,
Tamil Nadu Housing Board,
Erode - 638 009.

+1cc to M/s.C.Prakasam, Advocate, S.R.No.3201

W.P.No.40047 of 2002

RSK(CO)
CA(03/09/2015)

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