

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. Nos. 30937 & 30938 of 2015

Markand H. Desai

... Petitioner in both the
writ petitions

Vs.

1. The Secretary to Government,
Public Works Department (Highways),
Fort St. George, Chennai - 09.
2. The Director,
Tamil Nadu Road Development
Company Limited (TNRDC),
No.346, Pantheon Road,
Egmore, Chennai - 08.
3. The Managing Director,
Chennai Metropolitan Development
Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore, Chennai - 08.
4. The Land Acquisition Officer/
Revenue Divisional Officer,
Chengalpet.

... Respondents in both the
writ petitions

Prayer: Petitions under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondents to pay the compensation as per the proviso to Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the lands belonging to the petitioner measuring 0.11.5 hectares comprised in S.No. 3/495A1AB1 and 0.07.5 hectares comprised in S.No.3/496A1A1A2 respectively of Uthandi Village, Chennai.

For Petitioner : Mr.S. Sivakumar

For Respondents : Mr.RM. Muthukumar,
Government Advocate for
R1, R2 & R4
Mr.K. Raja Srinivas for R3

O R D E R

The writ petitions are filed for issue of a Writ of Mandamus directing the respondents to pay the compensation as per the proviso to Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the lands belonging to the petitioner measuring 0.11.5 hectares comprised in S.No. 3/495A1AB1 and 0.07.5 hectares comprised in S.No.3/496A1A1A2 respectively of Uthandi Village, Chennai.

2. The case of the petitioner is that he is the Karta of Hindu Undivided Family and he purchased a property, in the name of M/s. National Farm Beach Complex Development Corporation as a proprietor, to an extent of 11 acres and 71 cents comprised in S.No. 3/2B3B and 2/2B3B by sale deed dated 30.07.1981 registered as document No. 2097/1981 and another property vide document No. 3464/1981 on 14.12.1981 (SRO, south Chennai) to an extent of 10 acres and 11 cents of land comprised in S.No. 2/2B4A and 3/2B4A situated at Uthandi, Chennai. Out of a total extent of 21 acres and 82 cents, he sold an extent of 0.72 cents to some third parties and the same was also purchased by him subsequently. Further, the petitioner was in possession and enjoyment of the property and the revenue records stand in the name of M/s. National Farm Beach Complex Development Corporation and patta vide Patta No.45 was issued to the entire extent of 7.44.0 hectares of land and he had been regularly paying the taxes, kist and other incidental charges without any default. While so, the 1st respondent issued a notification on 11.08.1993 for acquiring the lands in S.No. 3/495A1AB1 for widening and strengthening of East Coast Road and an award was passed in Award No. 01/95 in August, 1995. Likewise, another notification was issued by the 1st respondent on 04.03.2002 for acquiring the lands in S.No. 3/496A1A1A2 for the purpose of improvement (Administrative office for Toll Plaza) of the East Coast Road and an award in Award No. 02/2003/B dated 05.02.2003 was passed. However, according to the petitioner, in respect of acquisition

of both the lands, neither the procedure contemplated under the relevant statutory provisions were complied with nor the compensation was paid to the petitioner. Though W.P. No. 22511 of 2002 was filed by the petitioner challenging the earlier acquisition was disposed of by order dated 05.09.2003 directing the respondents to pay the award amount and also to make an appropriate reference for adjudication as regards the enhancement for payment of compensation amount and the subsequent writ petitions in W.P. Nos. 29053 & 29054 of 2005 filed by the petitioner seeking issuance of TDR in respect of the lands acquired were disposed of directing the 2nd respondent herein to issue TDR to the petitioner, so far, neither of the orders have been complied with by the respondents. Since awards have been passed and possession has already been taken, but compensation is yet to be paid, according to the petitioner, he is entitled to avail the benefits of the proviso to Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Hence, the present writ petitions.

3. Heard Mr.S. Sivakumar, learned counsel for the petitioner, Mr.RM. Muthukumar, learned Government Advocate for respondents 1, 2 & 4 and Mr.K. Raja Srinivas for the 3rd respondent.

4. Mr.RM.Muthukumar, learned Government Advocate would submit that though the petitioner was tendered the award amount, he did not receive the same and therefore, the respondents kept the said amount with them. However, the learned Government Advocate would submit that in 2015, the entire compensation amount has been deposited before Sub Court, Chengalpet.

5. Admittedly, the awards were passed as early as in the year 1995 and 2003 respectively and possession was also taken, but the compensation amount has not been paid to the petitioner so far. Only in 2015, after the commencement of the new Act, the award amounts have been deposited before the Civil Court. In such circumstance, the proceedings under the old Act get lapsed and as rightly contended by the petitioner, he is entitled to receive compensation, in respect of both the lands acquired, as per the provisions of the new Act. Therefore, the respondents are directed to calculate the compensation payable to the petitioner as per the provisions of the new Act, in respect of lands acquired, namely, to an extent of 0.11.5 hectares comprised in S.No. 3/495A1AB1 and 0.07.5 hectares comprised in

S.No.3/496A1A1A2 respectively of Uthandi Village, Chennai and pay the amount to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order failing which the 1st respondent shall appear before this Court during the first week of March, 2016. The writ petitions are disposed of accordingly. No costs.

6. Post the writ petitions during the first week of March, 2015 for reporting compliance.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Secretary to Government,
Public Works Department (Highways),
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2. The Director,
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3. The Managing Director,
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Thalamuthu Natarajan Building,
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Egmore, Chennai - 08.
4. The Land Acquisition Officer/
Revenue Divisional Officer,
Chengalpet.

+1cc to Mr.S. Sivakumar, Advocate, S.R.No.58044
+1cc to Mr.K. Raja Srinivas, Advocate, S.R.No.58014
+1cc to the Government Pleader, S.R.No.58042

W.P. Nos.30937 & 30938 of 2015

VSN(CO)
CA(04/11/2015)