

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3/11/2015

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.31363 of 2015

a n d

M.P.No.1 of 2015

Maniyammal

...Petitioner

Vs

1. The Revenue Divisional Officer
Ambattur
Chennai 53.
 2. The Revenue Divisional Officer
Ponneri
Tiruvallur District.
 3. The special Tahsildar (Land Acquisition-II)
National Highways Scheme, Chennai - 90.
- ...Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.2386/2015/A2 dated 1/9/2015 and quash the same in so far relates to the petitioner is concerned and consequently direct the first respondent to entertain the petitioner's case to refer the matter for awarding higher compensation as per under Section 28 A of the Land Acquisition Act and decide the matter on merits in accordance with law.

For petitioner ... Mr.C.Prakasam
For respondents ... Mr.R.Rajeswaran, Spl.G.P.

O R D E R

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2. Heard Mr.C.Prakasam for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader for the respondents.

3. Challenge in this writ petition is to a memo issued by the first respondent dated 1st September 2015. The petitioner's husband late Iyappan is stated to be the owner of the land in S.No.100/1B, Menambedu Village, Old Saidapet Taluk to the extent of 0.15 ½ cents, which according to the petitioner is a house site. The petitioner's husband is said to have constructed a building thereon. The said house site along with the building was acquired by the National Highways Authority during 1985 and they paid a very meagre compensation to the petitioner's husband. During 1996, the petitioner's husband died. The adjacent land owners had obtained orders for higher compensation and after the petitioner came to know about the same, she also filed an application under Section 28 A of the Land Acquisition Act, for re-contribution of the amount of compensation on the basis of the award passed in other cases. This application was presented before the second respondent/Revenue Divisional Officer, Tiruvallur District, since the land fall within the jurisdiction of the second respondent.

4. The second respondent entertained the aforestated application and issued a notice to the petitioner on 20th January 2012, calling upon the petitioner, to appear before the second respondent for production of records and to attend an enquiry. The petitioner is stated to have appeared for the enquiry and produced all the original records and also handed over the xerox copy of the same. In the mean time, the jurisdiction of the authority on account of bifurcation vested with the first respondent. On coming to know about the same, the petitioner submitted a fresh representation to the first respondent stating about the enquiry conducted by the second respondent. On receipt of the same, the first respondent by the impugned memo has rejected the request alleging that the petitioner never gave a requisition under Section 28 A of the said Act.

5. Even though, Mr.RM.Muthukumar, learned Government Advocate having accepted notice on 6th October 2015, the respondents have not yet filed any counter affidavit nor given any instructions to the learned Special Government Pleader, who is appearing in the matter today.

6. On a perusal of the records placed before this Court, it is evident that the second respondent has received the petitioner's application and also heard the petitioner. In such circumstances, the first respondent should consider the application on merits and not on the ground that there was no

application at all.

7. Accordingly, this writ petition is allowed and the impugned memo dated 1st September 2015 is set aside and the matter is remanded to the first respondent for fresh consideration and the application of the petitioner shall be dealt with on merits and in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

sd/
ASSISTANT REGISTRAR (CCC)

/TRUE COPY/
SUB-ASSISTANT REGISTRAR

mvs.

To

1. The Revenue Divisional Officer
Ambattur
Chennai 53.
2. The Revenue Divisional Officer
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Tiruvallur District.
3. The special Tahsildar (Land Acquisition-II)
National Highways Scheme, Chennai - 90.

+1 CC to MR.C.Prakasam Advocate. SR.NO.60676
+1 CC to Govt.Pleader. SR.NO. 60741

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W.P.No.31363 of 2015

CO-VD
JD 26/11/2015

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