

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. No. 8834 of 2015

V. Palaniappan

..Petitioner

Vs.

The Special Tahsildar (LA),
Salem Karur Broad Gauge
Railway Line Project,
Rajaram Nagar,
Salem - 636 007.

...Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondent to make a reference under Section 18 of the Land Acquisition Act, 1894 to the competent Civil Court in respect of the petitioner's land measuring 0.10.0 hectares in S.No. 56/3B3 Amani Kondalampatty Village, Salem Taluk and District forthwith.

For Petitioner :: Mr.P. Jagadeesan

For Respondent :: Mr.RM. Muthukumar

O R D E R

The petitioner has approached this Court seeking a Writ of Mandamus directing the respondent to make a reference under Section 18 of the Land Acquisition Act, 1894 to the competent Civil Court in respect of the petitioner's land measuring 0.10.0 hectares in S.No. 56/3B3 Amani Kondalampatty Village, Salem Taluk and District forthwith.

2. The case of the petitioner is that he is the owner of the land measuring 0.16.0 hectares in S.No. 56/3B2B and 0.10.0 hectares in S.No. 56/3B3 in Amani Kondalampatty Village, Salem Taluk. The said lands were acquired for the purpose of Salem-Karur Broad Gauge Railway Line Project Scheme. The award in respect of the land, along with the lands of other land owners, was passed by the respondent in Award no. 10/1999-2000 in Roc.No. 59/98 dated 28.10.1999. The land in S.No. 56/3B2B is the self acquired property of the petitioner having been purchased under the sale deed dated 17.09.1964 and the petitioner received the award amount under protest from the respondent. The petitioner gave an application to the

respondent, in person, seeking a reference under Section 18 of the Land Acquisition Act (hereinafter referred to as "the Act") for the lands in S.No. 56/3B2B and 56/3B3. The respondent referred the matter under Section 18 of the Act only in respect of the land in S.No. 56/3B2B and the said reference was numbered as LAOP No. 255 of 2000 on the file of Fast Track Court No.1, Salem. The Reference Court fixed Rs.125 per sq.ft as compensation, which was modified by this Court, on appeal in A.S. No. 434 of 2007, at Rs.100/- per sq. ft. Further, according to the respondent, as there was a dispute with regard to the ownership of the land comprised in S.No. 56/3B3, the respondent referred the matter, in respect of the said land, to Sub Court, Salem under Section 30 of the Act. The reference was numbered as LAOP No. 251 of 2000 and it was finally disposed of on 12.03.2012 wherein it was decided that the petitioner is the owner of the said land. Thereafter, the petitioner sent a representation dated 25.01.2013 to the respondent requesting to make a reference under Section 18 of the Act. However, no action was taken, which compelled the petitioner to approach this Court by way of this writ petition.

3. Heard Mr.P. Jagadeesan, learned counsel for the petitioner and Mr. RM. Muthukumar, learned Government Advocate for Respondent.

4. It is an admitted fact that both the lands in S.No. 56/3B2B and S.No. 56/3B3 were acquired under the same 4(1) notification for the very same purpose. Since, in respect of the property in S.No. 56/3B2B, the compensation payable was fixed as Rs.100/- per sq. Ft, the compensation payable in respect of the land in Survey No. 56/3B3, should also be fixed at the same rate, as both the lands were acquired for the very same purpose and under the same 4(1) notification. Eventhough the petitioner has not filed any application as contemplated under the Act, technicality would not prevent this Court from rendering justice and there is no prohibition for this Court to direct the respondent to consider the claim of the petitioner, in respect of the land comprised in S.No. 56/3B3 on par with the land comprised in S.No. 56/3B2B, for which compensation was already paid to the petitioner @ Rs.100 per sq.ft.

5. Therefore, the petitioner is directed to give a fresh representation to the respondent, giving all the details required, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the respondent shall re-determine the compensation payable to the petitioner, under Section 28-A of the Land Acquisition Act, in the light of the orders passed by this Court in A.S. No. 434 of 2007 and pass appropriate orders, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

6. For reporting compliance, post after 10 weeks.

nv

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

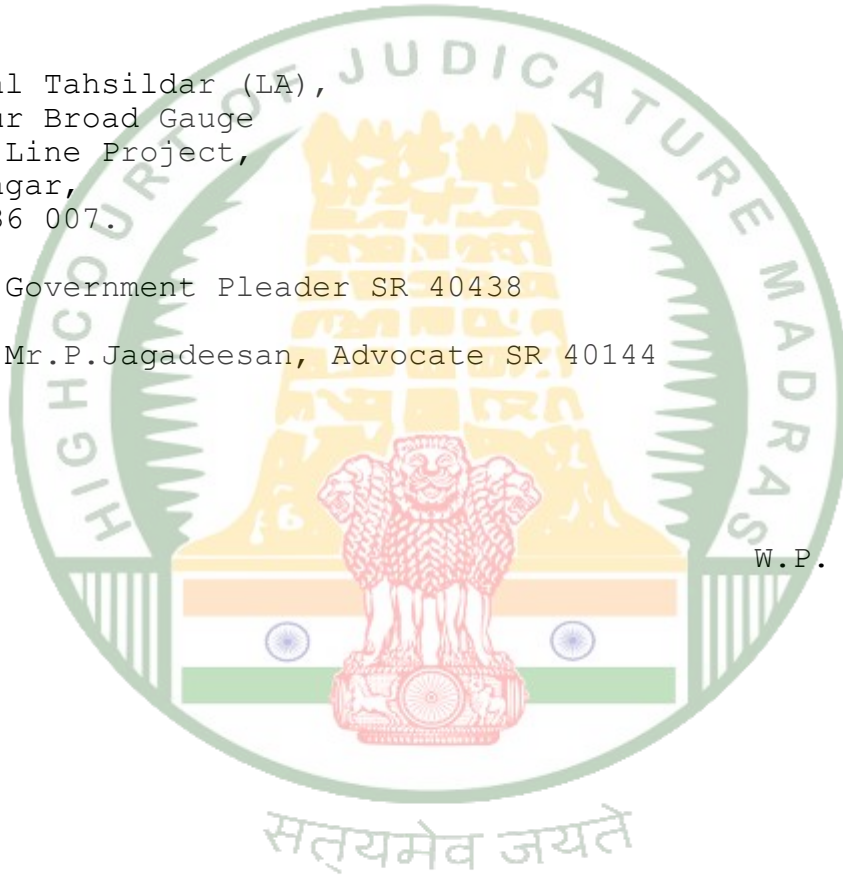
To

The Special Tahsildar (LA),
Salem Karur Broad Gauge
Railway Line Project,
Rajaram Nagar,
Salem - 636 007.

+ 1 cc to Government Pleader SR 40438

+ 1 cc to Mr.P.Jagadeesan, Advocate SR 40144

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