



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.07.2015

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P (NPD) (MD) No.774 of 2015

T.L.Jagannatha Iyer (Died)

T.J.Sethuram Babu

.. Petitioner/Petitioner/Claimant

Vs.

The Special Tahsildar (Land Acquisition)

Adhi Diravidar Welfare,

Sivagangai.

.. Respondent/Respondent/
Referring Officer

Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 24.11.2012 passed in I.A.No.273 of 2011 in L.A.O.P.No.28 of 1983 on the file of the Subordinate Judge, Sivagangai.

For Petitioner : Mr.R.A.Mohanram

For Respondent : No Appearance

ORDER

The State of Tamil Nadu acquired the land owned by the petitioner for public purpose. Feeling aggrieved by the award passed by the Land Acquisition Officer, the petitioner got the matter referred to the civil Court under Section 18 of the Land Acquisition Act. The Reference Court passed an award on 07 October, 1985. The reference Court awarded solatium at 15 % and interest at 4%.

2. Since the award passed by the Subordinate Court, Sivagangai was not in accordance with the Land Acquisition (Amendment) Act, the petitioner filed an application in I.A.No.273 of 2011 before the Subordinate Court, Sivagangai.

3. The application in I.A.No.273 of 2011 was dismissed by the trial Court primarily on the ground of delay. The said order is under challenge in this Civil Revision Petition.

4. The learned counsel for the revision petitioner contended that the award in question was passed on 07 October, 1985. Since the award was passed after the amendment made to the Land Acquisition Act on 24 September, 1984 the petitioner should have been given solatium at the rate of 30% besides interest at 12%. The learned counsel further contended that without any justifiable reason, the Subordinate Court rejected the application filed by the petitioner.

5. None appeared on behalf of the respondent.

6. There is no dispute that the petitioner is the beneficiary of the award passed in L.A.O.P.No.28 of 1983. The award was passed on



07 October, 1985. The petitioner is entitled to receive solatium and interest in accordance with the Land Acquisition (Amendment) Act, which came into force on 24 September, 1984.

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7. It is true that the application was filed by the petitioner after a period of six years. The petitioner is entitled to certain statutory benefits. Merely because claim petition was not preferred within a period of six years, it cannot be said that the Court would not even look into such matters. This is not a case of ordinary litigation. The petitioner was deprived of his land. He should get compensation in accordance with the provisions of Land Acquisition Act. The learned trial Judge took a too technical view on the matter and dismissed I.A.No. 273 of 2011 without considering the merits of the matter. I am therefore of the view that the issue requires fresh consideration by the learned Subordinate judge, Sivagangai.

8. It is worth mentioning here that even in the counter filed by the respondent, they have not taken up the contention that the petitioner is not entitled to solatium and interest as per the amended Act.

9. In the result, the order dated 24 November, 2012 in I.A.No.273 of 2011 in L.A.O.P.No.28 of 1983, is set aside. The application in I.A.No.273 of 2011 is restored to file.

10. The learned Subordinate, Judge, Sivagangai, is directed to decide the application in I.A.No.173 of 2011 on merits and as per law and more particularly in the light of the Land Acquisition (Amendment) Act, which came into force on 24 September, 1984. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

In the upshot, I allow this Civil Revision Petition. No Costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Sivagangai.

2. The Principal District Judge, Sivagangai.

+1cc to M/S..R.A.Mohanram, Advocate in SR.No 37046

Copy to

The Sub Assistant Registrar, (Judicial)
Judicial Section,
Madurai Bench of Madras High Court, Madurai.