

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.08.2016

Coram:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

W.P.No.14745 of 2016

K.Paramasivam

.... Petitioner

vs.

1.Union of India,
rep.by Secretary to Government(Revenue(
Revenue Department, Puducherry.

2.The District Collector, Puducherry,
District Collector Office,
Revenue Complex, Saram,
Puducherry.

3.Deputy Collector(Rev) North-cum-
Land Acquisition Officer,
Puducherry.

4.K.Ramalingam

... Respondents

R4 impleaded as per order
dated 15.07.2016 in
W.M.P.No.14658 of 2016 in
W.P.No.14745 of 2016.

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of declaration declaring the action of the 3rd respondent in making the reference under Section 30 of the Land Acquisition Act, 1894, by proceedings No.670/DCR(N)/LA/N/2009-13, dated 11.11.2013 as null and void and consequently direct the third respondent to make the payment of compensation of Rs.63,06,106.01 together with eligible interest.

For petitioner : Mr.M.Gnanasekar

For respondents : Mr.M.Govindaraj, G.P.(P),
for R1 to R3

ORDER

The petitioner is the owner of the land comprised in Re-Survey No.162/3, T.N.Palayam, to an extent of 00.18.50 Hectres, having purchased the same by sale deed dated 05.06.1978, from one Mangaiyarkarasi. The patta also got transferred in the name of the petitioner. Subsequently, the lands were acquired by the third respondent for the purpose of issuing free house sites to S.C./O.B.C, in the year 2010. In this regard, an award was passed on 21.8.2012 in Award No.2 of 2012. The award was passed in favour of the petitioner to the tune of Rs.63,06,106.01. Though all the Notifications and Declarations were in the name of the petitioner alone, the name of the petitioner's brother Mr.K.Ramalingam has been wrongly included in the award, based on an objection filed by the petitioner's brother stating that he is the cultivating tenant under the petitioner.

2. Though the authorities have informed the petitioner that the amount would be deposited in the civil Court, on verification, no such amount was deposited. The petitioner also represented to the

third respondent on 25.2.2016 to disburse the amount in his favour. Thereafter, on 11.3.2016, the third respondent made a reference to the Principal District Judge, Puducherry, now on the file of the Second Additional District Judge, Pondicherry, under Section 30 of the Land Acquisition Act, 1894, in L.A.O.P.No.6 of 2016. Challenging the said reference under Section 30 of the Land Acquisition Act, 1894, the petitioner has come before this Court.

3. Since the petitioner's brother has not been impleaded, this Court impleaded the said Mr.K.Ramalingam as per order dated 15.7.2016 in W.M.P.No.14658 of 2016. Though notice was ordered to the said K.Ramalingam and received by him and his name is printed in the cause list, no one entered appearance on his behalf. Therefore, this Court decided to dispose of the matter on merits.

4. Heard M.Gnanasekar, learned counsel appearing for the petitioner and Mr.M.Govindaraj, learned Government Pleader (Pondy), appearing for R1 to R3.

5. A perusal of the records, especially, the original Sale Deed, produced by the petitioner, dated 5.6.1978, would reveal that

the property has been purchased by the petitioner alone; the patta dated 27.6.2013 stands in the name of the petitioner; notice dated 11.11.2013, under Section 12(2) of the Act also was issued in the name of the petitioner alone and the extract of Settlement Register for lands pertaining to the property stands in the name of the petitioner. In view of the same this Court directed the Government Pleader, Pondicherry, to produce the objection letter filed by the said Ramalingam, the fourth respondent herein, and the same has been produced before this Court. On perusal, it is found that the said fourth respondent, without giving any material details and without producing any material documents, simply stated that he is a cultivating tenant of the petitioner. The said objection is bereft of material details. On the basis of the said letter, the respondents should not have included the name of the fourth respondent in the award. In any event, since the matter has already been referred and it has been numbered as L.A.O.P.No.6 of 2016, where both the parties will have opportunity to adduce evidence in support of their claims. Therefore, taking into consideration the materials on record, this Court directs the trial Court to dispose of L.A.O.P.No.6 of 2016, as early as possible, preferably, within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs.

22.08.2016

msk

Index:Yes/No

Internet:Yes/No

Note to Office:

Issue copy of the order on 23.08.2016

To

- 1.The Secretary to Government(Revenue)
Revenue Department, Puducherry.
- 2.The District Collector, Puducherry,
District Collector Office,
Revenue Complex, Saram,
Puducherry.
- 3.Deputy Collector(Rev) North-cum-
Land Acquisition Officer,
Puducherry.

N.KIRUBAKARAN,J.

msk

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