

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 07-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27431 OF 2015

1.S.Ezhumalai

2.Tmt.E.Jothi @ Oli

Petitioners

-vs-

1. The District Collector,
Puducherry District,
Puducherry.

2. The Deputy Collector (Revenue),
North-cum-Land Acquisition Officer,
Puducherry.

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records of the second respondent in his proceedings No.1525/DC(R) N/LA/2014, dated 08.10.2014, and quash the same and further directing the second respondent to refer the petition once again before the Civil Court for deciding the enhancement of compensation under Section 18 of the Land Acquisition Act,1894.

For petitioner : Mr.C.Samivel

For respondents : Ms.Reena Iswariya,
Addl.Govt.Pleader (Pondy).

O R D E R

Petitioners, being aggrieved by the acquisition proceedings for widening of East Coast Road, had made a request to the authorities, namely, respondents, to consider their claim for enhanced compensation. The representations were said to have been made by the petitioners during the year 1993 and thereafter in 2014. The representation, which was made in 2014 appears to have been done after the petitioners' claim that petitioners were held to be lawfully entitled to the property, in an order passed by the II Additional District Judge, Puducherry, in L.A.O.P.No.3 of 2005, filed under Section 30 of the Land Acquisition Act.

2. Respondents have non-suited the petitioners on two grounds; firstly, by stating that though the petitioners made a request in 2004 for enhanced compensation, the same came to be rejected and subsequently, the petitioners have not initiated any action and their further representation made in 2014 was also rejected, as time barred, as it was well beyond the period of six weeks from the date of Collector's award.

3. At the first blush, it appears that the reasoning given in the impugned order is perfectly justified. But, on a closer look into the factual position, a different picture emerges. The fact that the land acquisition proceedings were initiated during the lifetime of their father is not in dispute. On 14.10.1996, the petitioners' father is said to have died, leaving behind the second petitioner herein, the first petitioner's wife. They were running small grocery business under name and style "Sri Mariammal Maligai Store", and the extent which was acquired was about 420 sq.ft. The petitioners' case is that already some extent of lands were taken over for the purpose of a University and they pleaded that if this meagre extent is also taken away, their livelihood itself would be affected. In fact, the first petition appears to have been made to the Special Tahsildar on 18.08.1994. However, this document has not been annexed in the typed set of papers, but the photostat copy of the same has been produced by the learned counsel for the petitioners, which shows that there is a date seal affixed by the office of the Special Collector, Pondicherry, on 24.08.1984. On perusal of the said letter, it appears that the petitioners have been not only aggrieved by the acquisition proceedings, but they also sought for higher compensation.

4. The learned Additional Government Pleader is right in pointing out that the award itself was passed in the year 1995 and the claim for enhanced compensation could not have been made earlier. However, the facts of the case cannot be ignored, since the extent of land owned was a very meagre. The land owner died when the acquisition proceedings were in progress. So, at the earliest point of time, the petitioners appear to have raised protest, which was followed by filing of writ petition before this Court in W.P.No.43337 of 2002, wherein the petitioners sought for compensation of Rs.10.00 lakhs for demolition of their dwelling house and shop.

5. This Court, after hearing the learned Government Pleader, Pondicherry, appearing for the respondents therein, dismissed the writ petition, with liberty to the petitioners to approach the appropriate civil court, to redress their grievance. Thus, liberty granted by this Court accrued in favour of the petitioners on 23.01.2003, when the writ Court passed an

order. Thereafter, it appears that the petitioners had initiated steps to claim enhanced compensation, but by then, a dispute arose as to whether the petitioners are the rightful claimants to receive the compensation pursuant to the award. The Land Acquisition Officer filed objections before the civil Court only in 2005 in L.A.O.P.No.3 of 2005. For eight long years, the matter was pending before the civil Court and only on 12.07.2013, the civil Court held that the petitioners are entitled to receive the compensation of Rs.6,165/-. It is thereafter the petitioners pursued the matter and have sent a representation during March,2014, which has resulted in the impugned order being passed.

6. Given the above facts and circumstances of the case, this Court is of the view that the case of a person who has lost a meagre extent of land as well as his business, apart from losing the breadwinner of the family, has to be considered more reasonably and the petition given by him on 18.08.1994 could very well be taken as an objection not only to the acquisition but also to the inadequacy of the compensation. This request was reiterated before this Court when the petitioners filed earlier writ petition, namely, W.P.No.43337 of 2002, wherein this Court granted liberty to the petitioner to approach the Civil Court. This liberty stood preserved and was granted after hearing the learned Government Pleader appearing for the respondents. Thereafter, the petition was entangled in a legal muddle at the instance of the Land Acquisition Officer, who filed the petition before the Civil Court under Section 30 of the Act and allowed it to lie over for almost ten years and there could be no better case in which the respondents should take a pragmatic view in the matter and refer the matter to a Civil Court, for claiming enhanced compensation. One more reason to pass such an order is on account of the liberty granted by this Court in the earlier writ petition, which has to be honoured and shall accrue in favour of the writ petitioner.

7. For all the above reasons, this Writ Petition is allowed and the impugned order is quashed. The respondents are directed to refer the matter to the Civil Court, for claiming enhanced compensation within eight weeks from the date of receipt of this order. No costs. Consequently, the connected M.P.No.1 of 2015 is closed.
dixit

s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Puducherry District,
Puducherry.
2. The Deputy Collector (Revenue),
North-cum-Land Acquisition Officer,
Puducherry.

+ 1 cc to Mr.C.Samivel, Advocate SR 14926

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