

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.3.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.9140 of 2016

D.Chandra

Petitioner

Vs

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maaligai
Egmore, Chennai -600 008
2. The Special Tashildar (Land Acquisition)
O.R.R.Project, C.M.D.A.,
Koyembedu, Chennai - 600 092

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Ceteriorarified Mandamus to call for the records relating to impugned order dated 10.02.2016 made in Na.Ka. No. 9/2002. A1/Unit-6 on the file of the 2nd respondent to quash the same and consequently direct the 2nd respondent to make reference under Section 18 of the Land Acquisition Act to the Jurisdictional Civil Court.

For Petitioner ... Mr.C.Prabakaran
For R1 ... Mr. M.Karthikeyan
For R2 ... Mr.J.Balagopal
Additional Government Pleader

सत्यमेव जयते
O R D E R

Heard Mr.C.Prabakaran, learned counsel for the petitioner and Mr. M.Karthikeyan, learned standing counsel accepting notice for the first respondent and Mr.J.Balagopal, learned Additional Government Pleader accepting notice for the second respondent, and with the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2. The petitioner has filed this writ petition challenging the order dated 10.02.2016 passed by the second respondent in and by which the petitioner's request for referring the matter to the Civil Court with regard to the enhanced compensation

under Section 18 of the land acquisition Act has been rejected on the ground that it was time barred.

3. The petitioner would state that though the adjacent land owners have been granted compensation at the rate of Rs.95,000/- per cent pursuant to the settlement arrived at, the petitioner has been awarded only a sum of Rs.1,882/- per cent.

4. The case of the petitioner is that she had knowledge about the passing of Award only on receipt of communication dated 12.11.2015 which is said to have been received by her during the third week of November 2015. Therefore, the petitioner would state that six months period should be computed from the date of knowledge of the said proceedings.

5. This contention could not be placed before the second respondent owing to the fact that the second respondent has rejected the petitioner's claim without issuing notice to her. The land having been taken over, the second respondent should have adopted a very sensitive approach to the matter and examined as to whether the application was wholly barred by limitation or whether the factual contention raised by the petitioner was correct. However, it is for the petitioner to establish that he had knowledge of the Award only on receipt of communication dated 12.11.2015 which is stated to be received by her only during the third week of November 2015.

6. This Court is constrained to make such observation in the light of the fact that the land owner should be paid compensation which should be fair and reasonable. Therefore, the endeavour or approach of the second respondent should be in that angle. On the above ground, the writ petition is allowed and the impugned order is quashed. The matter is remanded to the second respondent for fresh consideration after issuance of notice to the petitioner calling upon her to prove her contentions and pass orders on merits and in accordance with law considering the entire materials, within a period of four weeks from the date on which the personal hearing is concluded. No costs.

ga

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maaligai
Egmore, Chennai -600 008

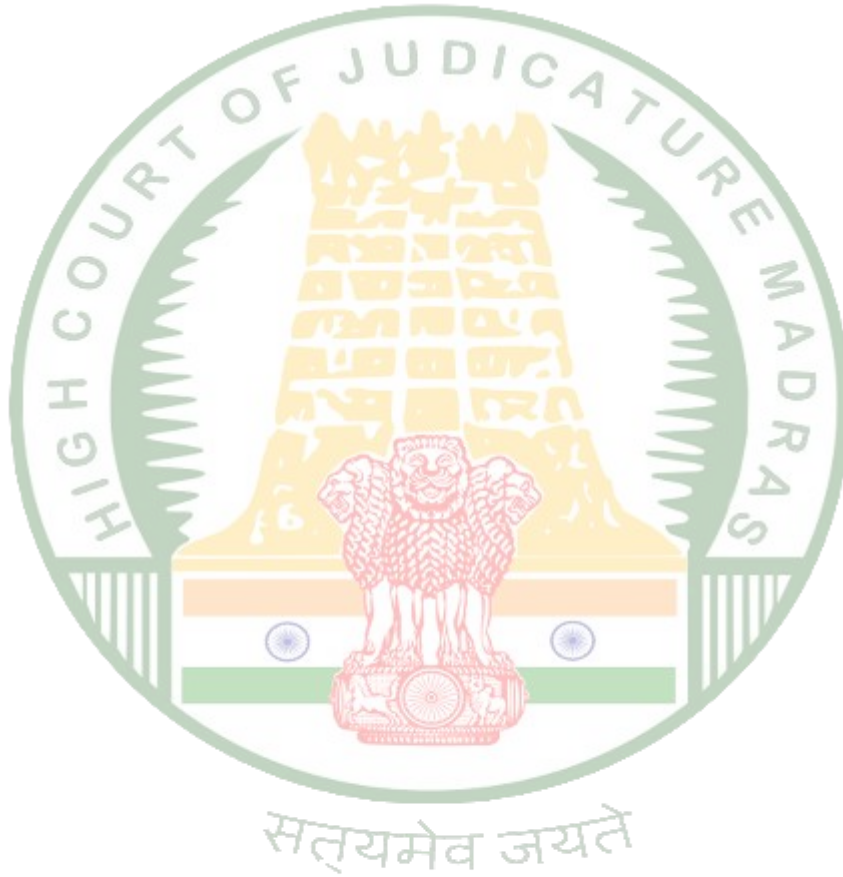
2. The Special Tashildar (Land Acquisition)
O.R.R.Project, C.M.D.A.,
Koyembedu, Chennai - 600 092

+ 1 cc to Mr.Prabakaran, Advocate, SR 15663

+ 1 cc to Govt.Pleader, High Court, Madras SR 16041

mg(co)
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