

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.11.2017
CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1498 of 2017
And
C.M.P.No.19774 of 2017

- 1.The District Collector
Kancheepuram District,
Kancheepuram.
- 2.The Special Tahsildar Sipcot,
Irungattukottai Expansion Scheme,
Door No.13A, C.S.I. School Lane,
Nehru Street, Sriperumbudur. Appellants/Respondents

Vs.

- 1.P.S.Kumar
- 2.P.Chandrasekar
- 3.G.Senthamarai Selvi
- 4.S.Gunasekaran Pandian
- 5.T.Ravi Respondents/Petitioners

Prayer:

Writ appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 07.08.2013 made in W.P.No.34383 of 2012.

Prayer in WP.No.34383/2012:Writ petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the order dated 19.4.2012 in reference No. Na.ka.No.01/2011 passed by the second respondent and quash the same and also directing the first respondent to refer the case of the petitioners for the determination of the compensation to the Court as defined in the Land Acquisition Act 1894 in accordance with the Sec.8 of theTamilnadu Acquisition of Land for Industrial Purpose Act 1997 (Tamilnadu Act 10 of 1999) within a period of one month

For Appellants : Mrs.A.Srijayanthi
Special Government Pleader

For Respondents : Mr.R.Manickavel

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

This intra court appeal is directed against the order dated 07.08.2013 in W.P.No.34383 of 2012 whereby and whereunder the learned Single Judge issued a Mandamus directing the District Collector, Kancheepuram, to refer the representation to the competent civil court for determination of the correct amount payable to the land owners under Section 8 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, read with Section 18 of the Land Acquisition Act, 1894.

2.The land owned by the respondents was acquired by the District Collector, Kancheepuram, by invoking the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. The Collector determined the compensation payable to the respondents under Section 7 of the Act. While accepting the compensation, the respondents made it clear that the amount is received under protest and without prejudice to their claim for enhancement of compensation. The claim for reference was rejected by the District Collector on the ground that the respondents have accepted the compensation and as such, there is no question of reference to the civil court for determination of the market value afresh.

3.The order passed by the District Collector, Kancheepuram, dated 19.04.2012 was challenged by the respondents before the writ court in W.P.No.34383 of 2012. The learned Single Judge having satisfied that the respondents have given application for reference within the statutory period directed the first appellant to refer the matter to the competent civil court for determination of the market value payable to the respondents.

4.The appellants have no case that the application for reference was given belatedly by the respondents. The District Collector determined the compensation payable to the respondents under Section 7 of the Act and intimation was given to the land owners. The land owners received the compensation under protest. The order passed by the District Collector, Kancheepuram, dated 19.04.2012 indicates that the respondents have reserved their right to claim enhanced compensation even while accepting the amount determined by the Land Acquisition Officer. The application for reference was rejected on a wrong footing that in case the amount is received by the claimants, they would lose their claim for enhanced compensation.

5.We are not in a position to agree with the views expressed by the District Collector, Kancheepuram, in the order dated 19.04.2012. There is a statutory protection given to the land owners under Section 8 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 for reference to the civil court,

in case, they are not satisfied with the amount determined by the Land Acquisition Officer. It is true that there is a condition attached to the said provision that the application for reference should be made within a period of sixty days from the date of the decision regarding the land value payable to the land owners.

6.It is a matter of record that immediately after the determination of the amount by the Land Acquisition Officer and more particularly while receiving the compensation, the respondents have given a letter stating that they are not willing to accept the valuation given by the Land Acquisition Officer, meaning thereby the matter has to be referred to the civil court for determination. Such being the factual position, the appellants were not correct in contending that the respondents accepted the compensation and as such, they are not entitled to make an application for reference before the civil court. This aspect was considered by the learned Single Judge and the writ petition was rightly allowed. We do not find any error or illegality in the order warranting interference.

7.The District Collector, Kancheepuram, is directed to refer the matter to the competent civil court within a period of two weeks from the date of receipt of a copy of this judgment.

8.In the upshot, we dismiss the intra court appeal. No costs. Consequently, the connected miscellaneous petition is also closed.

pri

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector
Kancheepuram District,
Kancheepuram.

2.The Special Tahsildar Sipcot,
Irungattukottai Expansion Scheme,
Door No.13A, C.S.I. School Lane,
Nehru Street, Sriperumbudur.

+1cc to Mr.R.Manickavel, Advocate Sr.No.81391

W.A.No.1498 of 2017

And

C.M.P.No.19774 of 2017

BR(CO)

sm:6.12.2017