

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.4558 of 2017

T.D.Chandra Sekar

.. Petitioner

Vs.

1. District Collector,
Kancheepuram District,
Kancheepuram.

2. The Special Tahsildar (LA)
IT Express way scheme,
Taluk office building,
Tambaram,
Chennai - 600 047.

... Respondents

Prayer : This Writ Petition is filed under Article 226, of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in Na.Ka.No.8185/2008 F1 dated 04.12.2014 on the file of first respondent and quash the same and further direct the respondent to make reference of the petitioner's representation dated 27.06.2013 before jurisdictional court to enable the petitioner to claim enhanced compensation.

For Petitioner : MR.P.K.Sabapathi

For Respondents : Mr.S.Diwakar
R1 & R2 Special Govt. Pleader.

ORDER

The prayer sought for in this Writ Petition is to quash the order passed by the first respondent/District Collector, Kancheepuram, dated 04.12.2014, and to direct him to consider the petitioner's representation dated 27.06.2013, and consequently, to pass orders by referring the matter before jurisdictional Court, so as to enable the petitioner to claim enhanced compensation for the land acquired from him.

2. The case of the petitioner, in short, as follows:-

The Petitioner's land was acquired for the purpose of IT Expressway Scheme, under the provisions of the Tamil Nadu Highways Act, 2001, and an award was passed by the first respondent, vide Award No.07/2013, dated 30.04.2013, by fixing the compensation at the rate of Rs.2713 per sq.mtr., and a copy of the said award was received by the petitioner during the second week of May, 2013. The petitioner, not being satisfied with the compensation fixed thereunder, made a representation, dated 27.06.2013, before the first respondent, praying to refer the matter before the Reference Court. The said representation came to be rejected by the first respondent/District Collector, Kancheepuram, by the impugned order, dated 04.12.2014, on the ground that the representation was not made within the period as stipulated under the provisions of the aforesaid Act, i.e., (not within 60 days time). Hence, this Writ Petition.

3. Heard the learned counsel appearing for the petitioner, and the learned Special Government Pleader, appearing for the respondents, and perused the materials placed on record.

4. Law is quite settled that receipt of the notice, which indicates the knowledge is the starting point of limitation. Therefore, the averments set out in the counter affidavit cannot be accepted for denying right accrued to the petitioner. Even otherwise, on perusal of the documents filed in the typed-set of papers, it would go to show that the petitioner's request was received on 1.7.2013, in the office of the respondent no.1. It appears that previous two days are holidays and therefore, the provision of the General Clauses Act, 1897 would apply. Thus, looking from any perspective, the petitioner succeeds.

5. Accordingly, the Writ Petition is allowed, and the impugned order is set aside, and the first respondent is directed to consider the petitioner's representation and pass orders by referring the matter before the Reference Court, thereby, enabling the petitioner to get the enhanced compensation within a period of eight weeks from the date of receipt of copy of this order.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

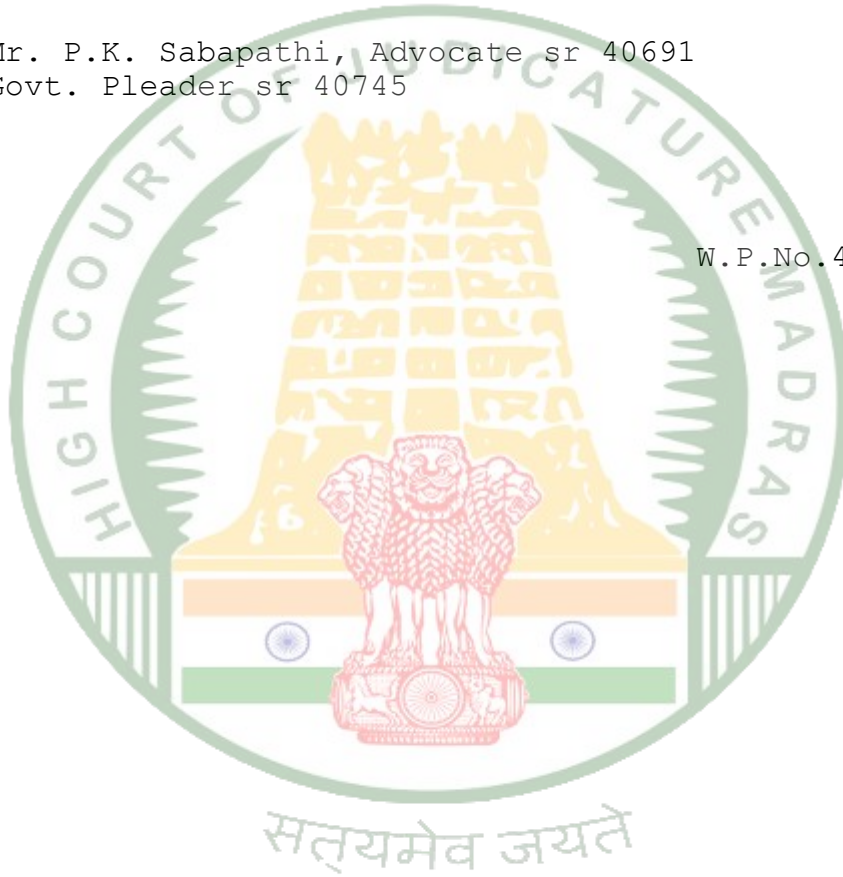
To

1. District Collector,
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IT Express way scheme,
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+1 CC to Mr. P.K. Sabapathi, Advocate sr 40691
+1 CC to Govt. Pleader sr 40745

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