

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2017

Coram:

The Honourable Mr. Justice N. SESHASAYEE

W.P.No.8759 of 2017

Mrs. Jayalakshmi

...Petitioner

Versus

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Special Tahsildar (LA) Unit V
Ultra Mega Power Project,
Cheyyur,
Kancheepuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the first respondent to pass orders on the petitioner's representation dated 12.11.2016 requesting him to refer the dispute to the competent court having jurisdiction to decide the correct compensation amount payable to the petitioner's above acquired land comprised in S.No.25/2, measuring 1.32.5 Hectres situated at Vilankadu Village, Cheyyur Taluk, Kancheepuram District.

For Petitioner : Mr. N. Nagu Sah

For Respondents: Mr. A. Zakir Hussain,
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a writ of mandamus to direct the first respondent to refer the matter for determining the compensation under Section 7(3) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997.

2. The property of the petitioner having an extent of 1.32.5 hectares comprised in Survey No.25/2 of Vilankadu Village, Cheyyur Taluk, Kancheepuram District was stated to have been acquired by the respondents under the provisions of the

aforesaid Act. While so, the petitioner was informed that an award dated 11.09.2013 was passed, fixing the compensation amount at Rs.14,72,737.50/-.

3. The counsel for the petitioner submits that to the knowledge of the petitioner, no award has been officially passed. It is further averred that the property was outstanding on a loan with M/s Central Bank of India and in these circumstances the petitioner agreed to receive the amount offered by the second respondent on protest. However, it was learnt that the compensation amount was stated to have been paid by the second respondent directly into the loan account of the petitioner with M/s Central Bank of India, but the second respondent has not furnished the details regarding the disbursement of the compensation amount. Therefore, on 30.07.2016, the petitioner sought some information under Right to Information Act, and on 20.09.2016, the petitioner has received a reply dated 31.08.2016 from the second respondent along with the documents informing the petitioner with the details of the amount awarded as well as the fact that the amount was deposited with M/s Central Bank of India to discharge the outstanding loan liability on the property acquired.

4. On perusal of the documents produced (which is now made available in Page No.9 of the typed set of papers), the petitioner's property was valued at Rs.4,500/- per cent, which according to the petitioner is far below the market price of the property. Therefore, she sent a representation dated 12.11.2016 to the first respondent to refer the matter to the competent Court, having jurisdiction to decide the compensation.

5. In the counter affidavit filed by the first respondent, it is alleged that an award dated 28.07.2015 was passed and the same was based on a consensual agreement under Section 7(2) of the aforesaid Act and consequently, there does not arise any possibility for reference under Section 7(3).

6. While the proforma that evidences the consensual agreement on valuation of the property as available in the typed set of papers does not have a date, the learned Government Advocate, made a statement on the strength of the original file containing statement of the petitioner, that it was signed by the petitioner on 23.07.2015. This file was perused by the court too. It is therefore obvious that the petitioner has not consented to the amount as offered by the second respondent as the value of the property. Inasmuch as, the award is not a consent-award within the meaning of Section 7(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, the representation made to refer the matter to the Collector for determining the compensation in terms of Sec.7(3) of the Act is valid and sustainable in law.

7. The second respondent is therefore directed to take necessary steps to ensure that a reference is duly made to the Collector in accordance with Section 7(3) of the aforesaid Act within 12 weeks from the date of receipt of copy of this order. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

mrr
To

1. The District Collector,
Kancheepuram District,
Kancheepuram.

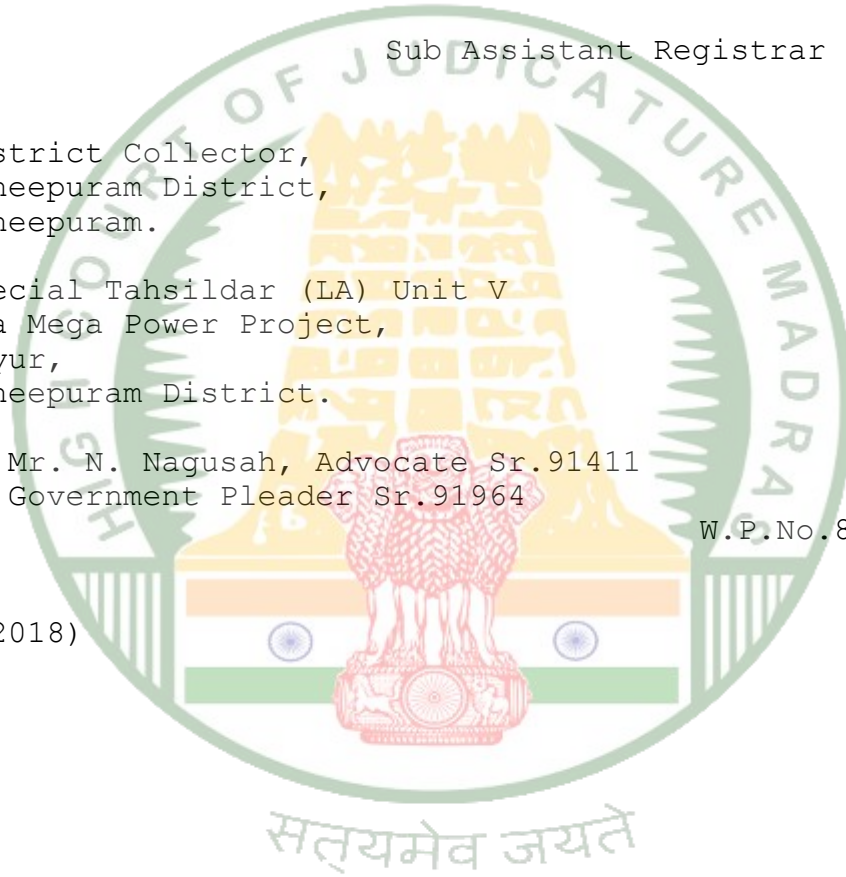
2. The Special Tahsildar (LA) Unit V
Ultra Mega Power Project,
Cheyyur,
Kancheepuram District.

+ 1 cc to Mr. N. Nagusah, Advocate Sr.91411

+ 1 cc to Government Pleader Sr.91964

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EU(18/01/2018)



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