

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.05.2017

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THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.30194 of 2003

Ramani Ammal

.. Petitioner

Versus

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Land Administration,
Fort St. George, Chennai-9.

2.The Revenue Divisional Officer,
Ramnad.

3.The Special Tahsildar,
Land Acquisition,
Ramnad.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, to direct the 2nd respondent to send the matter for reference under Section 18 of the Land Acquisition Act for the lands acquired in S.No.42/5A1 measuring 1458 sq.ft. situated in Pattinamkathan Village, Ramnad Taluk and District as per the Award No.1/97-98 dated 03.04.1997 to the Sub Court, Ramnad.

For Petitioner : Mr.M.Md.Ibbrahim Ali

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

ORDER

The writ petitioner moved this Court for the relief of seeking a direction to the 2nd respondent to order for a reference under Section 18 of the Land Acquisition Act, in respect of the lands already acquired in S.No.42/5, measuring 1458 sq.ft., situated in Pattinamkathan Village, Ramnad Taluk and District, as per the award No.1/97-98 dated 03.04.1997 to the Sub-Court, Ramanathapuram.

2. In short, the writ petitioner states that the Revenue Divisional Officer, Ramnad, has passed an award in continuation of land acquisition proceedings in Award No.1/97-98 on 03.04.1997. Though the writ petitioner had not appeared during the award enquiry and not received the notice for the Award enquiry, the writ petitioner came to understand about the passing of the award only from the adjacent landowners. In spite of the said fact the writ petitioner has received the entire compensation amount on 24.03.1998. However, the writ petitioner received the award amount under protest and a representation to that effect was also submitted by the writ petitioner on the same date.

3. Under these circumstances, the learned counsel appearing

for the writ petitioner contended that consequent to the protest representation submitted by the writ petitioner, a reference under Section 18 of the Land Acquisition Act, ought to have been made by the 2nd respondent to the Sub Court, Ramnad, but the respondents failed to do so. Hence, he moved this Court with such a prayer.

4. In support of the contention, the learned counsel for the petitioner cited a judgment of the Hon'ble Division Bench of this Court passed in the case of *Syed Abubacker Vs. State of Tamilnadu, rep. by its Secretary to Government, Department of Land Administration, Fort St. George, Chennai-9 and others*, reported in 2013 (1) CWC 335, it is relevant to quote paragraph Nos.8 to 10 as under

"8. As regards making a request to make a Reference under Section 18(2) of the Land Acquisition Act, 1894, referring to the decisions of the Hon'ble Apex Court and of various High Courts, a Division Bench of this Court in Steel Authority of India Ltd., Salem Steel Plant v. Salem Urukklai Thittathal Nilam Illanthor Sangam, Salem & Others, 2006 (1) MLJ 252 (DB), categorically held that for making a Reference under Section 18(2) of the Land Acquisition Act, 1894, mere protest, expression of dissatisfaction of the award amount without there being

anything in writing is sufficient and the authorities are under obligation to refer the matter to the Court under Section 18(2) of the Act.

9. In this case, a perusal of the materials on record shows that the Appellant was continuously urging for making such reference. It is evident from his continuous representations made in December 2004, 13.11.2006, 28.3.2007 & 16.11.2007 that he made protest at the time of receiving the amount. Further, it is sheer common sense that in no case the land owner will be satisfied with the compensation awarded by the Land Acquisition Officer. In the facts and circumstances of this case, the decision cited squarely applies to this case.

10. In the result, this Writ Appeal is allowed. The order of the Writ Court is set aside. The 2nd respondent, namely, the Revenue Divisional Officer, Ramanthapuram, will make a Reference under Section 18(2) of the Land Acquisition Act, 1894, of the Award passed under the Act with respect to the Appellant's land acquired under the Act to the concerned Tribunal. It is made clear that this exercise shall be completed within eight weeks from the date of receipt of a copy of this judgment. No costs."

5. The learned Special Government Pleader raised an apprehension that by efflux of time the proceedings would have

completed long back and lands in question would have been allotted to other persons. Therefore, no purpose will be served for issuing a direction to refer the acquisition under Section 18 of the Act.

6. However, the respective counsels are unable to submit about the present status and the position regarding the land acquisition proceedings. Under these circumstances, this Court is left with only option to follow the directions of the Division Bench and accordingly, the 2nd respondent is directed to make a reference under Section 18 of the Land Acquisition Act, 1894, to the appropriate Court. However, the respondents can verify whether any reference was already made to that effect by the appropriate authority, in respect of these land acquisition proceedings and find out the facts regarding the case and thereafter, pass appropriate orders to that effect. With these observations, the writ petition is disposed of. There shall be no order as to costs.

05.05.2017

Index:Yes/No
Internet:Yes/No
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S.M.SUBRAMANIAM.J,

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To

1.The Secretary to Government,
Government of Tamil Nadu,
Department of Land Administration,
Fort St. George, Chennai-9.

2.The Revenue Divisional Officer,
Ramnad.

3.The Special Tahsildar,
Land Acquisition,
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