

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.1675 of 2017

Anil Kumar Ohja

.. Petitioner

-vs-

1. The District Collector
Thiruvallur District
Thiruvallur

2. The Special Deputy Collector
TNUDB III
15, M.G.Nagar, Poonamallee
Chennai 600 056 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the second respondent herein namely the Special Deputy Collector, TNUDB III, 15, M.G.Nagar, Poonamallee, Chennai 600 056 to refer the matter to the Reference Court for the purpose of determining enhanced compensation covered under Award No.Na.Ka.No.85/2007/A1 dated 30.04.2012 for land comprised in Thiruvallur District, Madhavaram Taluk, Thiruvottiyur Town, Ward H, Block 1 and Ward C Block 11, Town Survey No.30/2 Part, Land Acquisition Sub Division No.30/6, admeasuring about 66 sq.mtrs.

For Petitioner :: Mr.Richardson Wilson

For Respondents :: Mr.M.Elumalai
Government Advocate

ORDER

Mr.Anil Kumar Ohja is the owner of the land covered in Survey No.30/2 Part, Land Acquisition Sub Division No.30/6, Ward H, Block 1 and Ward C Block 11, Tiruvottiyur Town, Madhavaram Taluk, Tiruvallur District admeasuring 66 sq.mts. However, the said land was acquired and after the issuance of the enquiry notice dated 8.7.2011 under Section 19(2) & (3) of the Tamil Nadu Highways Act, 2001 followed by the enquiry notice dated 9.2.2012 under Section 19(5) & (7) of the Tamil Nadu Highways Act, 2001, the compensation was fixed at the rate of Rs.746/- per sq.ft., for 66 sq.mts., in a sum of Rs.8,71,372/- inclusive of the value of building, trees, solatium and interest. Aggrieved by the fixation of a meagre amount of compensation,

the petitioner has given a representation on 15.5.2012, on the ground that his land is situated adjacent to the main road and the market rate of the land for the year 2011 was Rs.7000/- per sq.ft., and the guideline value on the relevant date was Rs.3500/- per sq.ft. Therefore, it was the case of the petitioner that the fixation of Rs.746/- per sq.ft., was not acceptable to him and on that basis, he sought for re-determination of the compensation/enhancement under Section 20 of the Tamil Nadu Highways Act, 2001. As no improvement has been shown on his representation, he has been advised to approach this Court.

2. Mr.M.Elumalai, learned Government Advocate takes notice on behalf of the respondents.

3. It is not in dispute that the petitioner's land covered in Survey No.30/2 Part, Land Acquisition Sub Division No.30/6, Ward H, Block 1 and Ward C Block 11, Tiruvottiyur Town, Madhavaram Taluk, Tiruvallur District admeasuring 66 sq.mts was acquired by the respondents on 30.4.2012 in Award No.2 of 2012 by fixing the compensation as aforementioned. Aggrieved by the meagre amount of compensation fixed in the award dated 30.4.2012, within sixty days from the date of award, the petitioner made an application on 15.5.2012 to the District Collector requiring him to refer the matter for determination of the Court. In this context, it is relevant to extract Section 20 of the Tamil Nadu Highways Act, 2001 as follows:-

"20.(1) Any person aggrieved by the decision of the Collector, or the officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, in so far as it affects him, by application to the Collector or the officer to whom the case was transferred, require that the matter be referred by him for the determination of the Court as defined in the Land Acquisition Act, 1894 and when any such application is made, the provisions of part III of the said Act shall mutatis mutandis apply to further proceedings in respect thereof.

(2) The decision of the Court on such reference and subject only to such decision of the Collector determining the amount shall be final."

4. A mere perusal of the above provision clearly shows that if the land owner is aggrieved by the decision of the Collector or the officer to whom the case was transferred determining the compensation, within sixty days from the date of such decision, the land owner can make out an application to the Collector or the officer to whom the case was transferred requiring them to refer the matter for the determination of the Court as defined

in the Land Acquisition Act, 1894, which has been replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. As the respondents have not considered the petitioner's application from 2012, the petitioner after waiting for almost four years, has rightly come to this Court. When Section 20 of the Tamil Nadu Highways Act contemplates that the affected land owner can make an application against the meagre compensation within sixty days from the date of passing the award, in the present case, when the award was passed on 30.4.2012, even before the expiry of sixty days, on 15.5.2012, the petitioner has made the application seeking the respondents to refer the matter. Therefore, the respondents, in my considered opinion, ought to have acted within sixty days to refer the matter for determination of the Court. In the present case, even after a period of more than four years, the respondents have not acted on the petitioner's application. Hence, this Court hereby directs the respondents to refer the matter of the petitioner to the concerned Court, preferably within a period of ten days from the date of receipt of a copy of this order. With this direction, the writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Thiruvallur District
Thiruvallur
2. The Special Deputy Collector
TNUDB III
15, M.G.Nagar, Poonamallee
Chennai 600 056

+1cc to Mr.Richardson, Advocate, S.R.No.4494
+1cc to the Government Pleader, S.R.No.5067

AK(CO)
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