

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.6964 of 2015

and

M.P.No.1 of 2015

Karthikeyan

...Petitioner

/versus/

1. The Special Secretary (Revenue)
-cum-the District Collector,
Puducherry District,
Puducherry.

2. The Sub Collector cum Land Acquisition Officer,
(Revenue - South),
Villianur,
Puducherry.

...Respondents

Prayer: Writ petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of a writ to call for the records of the 1st Respondent herein relating to the order dated 22.12.2014 in No.4677/Rev/B1/2007 and quash the same and consequently direct the respondents herein to pay compensation as provided under the proviso clause to Section 24 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the land comprised in Survey No.5/5of Suthukeni Revenue Village, Puducherry.

For Petitioner : Mr.S.Saravanan

For Respondents : Mrs.V.Usha

Additional Government Pleader
(Pondicherry)

O R D E R

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of a writ to call for the records of the 1st Respondent herein relating to the order dated 22.12.2014 in No.4677/Rev/B1/2007 and quash the same and consequently direct the respondents herein to pay compensation

as provided under the proviso clause to Section 24 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the land comprised in Survey No.5/5of Suthukeni Revenue Village, Puducherry.

2.The petitioner's land was subjected to acquisition proceedings under the Land Acquisition Act, 1894 originally. The notification under Section 4(1) was passed on 19.06.2007, declaration was on 02.09.2008. Thereafter, an award was passed on 16.04.2010.

3.The petitioner filed a Writ Petition earlier in W.P.No.11117 of 2010 seeking a direction to the respondents from proceeding with the acquisition Proceedings until the outcome of the appeal pending before the Director of Survey and Land records. During the pendency of the aforesaid Writ Petition, an Order of injunction was granted restraining the respondents from dispossessing the petitioner. The Writ Petition was finally disposed of on 28.02.2014 directing the Director of Survey and Land Records to appoint an independent Surveyor to measure the property, after due notice the petitioner and pass appropriate orders. Accordingly, an order was passed on 30.04.2014, following which the possession was taken on 19.05.2014 and the amount was deposited in the month of January 2015.

4.Thus, facts are not in dispute.

5.Learned counsel for the petitioner would submit that what the petitioner wants is a determination of compensation under the New Act, namely, Act 30 of 2013, which has come into force with effect from 01.01.2014. He relies upon Section 24(1) (b) to be read with Proviso.

6.Learned counsel for the respondent makes reliance upon Section 24(2) which contains a non-obstante clause and submits that the Writ Petition will have to be dismissed in as much as the award having been passed and possession taken though belatedly - after the New Act has come into force. It is further submitted that earlier, the amount could not be deposited and possession taken in view of the interim order was passed by this Court.

7.Admittedly, the order of injunction was with respect to the dispossession pending the writ petition as seen from paragraph 9 of the counter affidavit filed. Thereafter, the writ petition was disposed of with certain directions.

8.Thus, two facts have emerged. Firstly, there was no bar for the respondents to deposit the award amount during the

pendency of the writ petition. Secondly, the possession followed by deposit have been made after the disposal of the writ petition. Incidentally, it is also to be noted that though the possession was taken on 19.05.2014, the deposit was made in the month of January 2015.

9. Thus, admittedly both possession and deposit have been made after the New Act has come into force. In so far as the issue pertaining to the possession is concerned, the learned Additional Government Pleader (Pondicherry) appearing for the respondents is correct, since there was an order prohibiting taking over. However, the said submission cannot be extended to the fact regarding the belated deposit of the award amount. A mere pendency of the writ petition by itself cannot be a bar from proceeding with the acquisition initiated under the earlier Act, especially, when the interim order permits the respondents to proceed. What the petitioner seeks is a compensation under the New Act.

10. As there is no dispute that the deposit of the award amount has been made only in the impugned of January 2015, this Court is of the view that the petitioner is entitled to succeed. Accordingly, the order amount is set aside and consequently the respondents are directed to fix the compensation under the Act 30 of 2013 within a period of eight weeks from the date of receipt of a copy of this order.

11. In the result, the Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

rna

To

1. The Special Secretary (Revenue)
-cum-the District Collector,
Puducherry District,
Puducherry.

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2. The Sub Collector cum Land Acquisition Officer,
(Revenue - South),
Villianur,
Puducherry.

+1 CC to Govt. Pleader sr 41783

+1 CC to Mr.S. Saravanan, Advocate sr 41465

W.P.No.6964 of 2015

RSY (CO)
sp/22/6



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