

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2017

CORAM: THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

W.P.No.29450 of 2016

E.Santhamoorthy

... Petitioner

-Vs-

1.The District Collector
Tiruvallur District
Tiruvallur.

2.The Land Acquisition Officer
cum Special Tahsildar (L.A) Unit-4
Kannan Kottai, Theerai Kandigai
Water Storage Scheme (E)
Kavaraipettai Post,
Gummidipoondi Taluk
Tiruvallur District. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the second respondent to consider the representation of the petitioner dated 05.04.2016 made to the second respondent with a request to conduct proper enquiry, to ascertain the market value of the land, to take continuous action based on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (No.30 of 2013) by fixing the appropriate compensation amount and pay the same to petitioner and pass orders on the said representation as per the time frame fixed by this Court.

For Petitioner : Mr.C.R.Dhasarathan

For Respondents: Mr.A.Zakir Hussain
Government Advocate

ORDER

This petition is filed for an issuance of Writ of Mandamus to direct the second respondent to pass an award in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The learned counsel for the petitioner submits that the land which belonged to the petitioner and his brother, had an extent of 2.22.5 ares comprised in Survey No.82/3A1, No.27, Karadi Puthur Village, Gummidipoondi Taluk, Tiruvallur District, was acquired for the purpose of formation of

reservoir and award in this case was passed in March '2014. Under Section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, where an award has not been passed as concerning the proceedings initiated under the Land Acquisition Act 1894, award shall be passed only in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In the award, it is indicated that whatever that has been determined by the Acquiring Authority, has been done under the earlier Act and an additional compensation amount would be paid in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioner has therefore preferred a representation dated 05.04.2016 for the said purpose.

3. Mr.A.Zakir Hussain, learned Government Advocate takes notice for the respondents. Heard the learned counsel appearing for the petitioner and the learned Government Advocate for the respondents and perused the materials placed before the Court.

4. It is apparent even on a cursory perusal of typed set of papers that the award has been passed only in March '2014, as pertaining to the land acquisition proceedings initiated under Land Acquisition Act, 1894.

5. It is relevant to extract Section 24(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which reads as under :

24.Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases -

(1)Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), -

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then, such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

6. The provision of Section 24(1)(a) had made specific application that compensation payable should be assessed in terms of the said Act, in all cases where award has not been passed under the Land Acquisition Act, 1894. This has also

been endorsed in G.O.No.88, Revenue (LA-1) (1) Department dated 21.12.2014, which finds a reference in the award itself. It may have to be added that even de hors G.O.No.88, Revenue (LA-1) (1) Department dated 21.12.2014, referred to above, the Land Acquiring Authority is under an obligation to pass an award in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No.30/2013). It is to activate the authorities to pass an award in terms of the said Central Act No.30/2013, the petitioner has preferred a representation dated 05.4.2016.

7. This Court, therefore, directs the second respondent to consider the representation of the petitioner dated 05.4.2016, in accordance with law, within eight weeks from the date of receipt of a copy of this order, after granting the petitioner a personal hearing in this matter and also indicate the decision taken on such representation to the petitioner.

8. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds

To:

1.The District Collector
Tiruvallur District
Tiruvallur.

2.The Land Acquisition Officer
cum Special Tahsildar (L.A) Unit-4
Kannan Kottai, Theerai Kandigai
Water Storage Scheme (E)
Kavaraipettai Post, Gummidipoondi Taluk
Tiruvallur District.

+ 2 ccs to Mr. C.R. Dhasarathan, Advocate Sr.88285

+ 1 cc to the Government Pleader Sr.89044

W.P.No.29450 of 2016

EV(CO)

EU(03/01/2018)