

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.35422 of 2016

G. Kuppan

...Petitioner

Vs.

1. The Managing Director,
SIPCOT,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-8

2. The Special Tahsildhar,
(Land Acquisition) SIPCOT Unit,
Sriperumbudur Taluk,
Kanchipuram District.

...Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 2nd respondent herein in Na.Ka.20/2016, dated 19.07.2016 and quash the same and consequently direct the respondents herein to pay the compensation to the petitioner as fixed by the Hon'ble Supreme Court in C.A.Nos.7852-7853/2011 by order dated 12.09.2011.

For Petitioner .. Mr. G. Karthikeyan

For Respondents .. Ms.Sudarshana Sundar for R1
Mr.R.A.S. Senthilvel,
Addl. Govt. Pleader for R2

ORDER

Challenging the proceedings of the second respondent dated 19.07.2016 and to direct the respondents herein to pay the compensation to the petitioner as fixed by the Supreme Court in C.A.Nos.7852-7853/2011 by order dated 12.09.2011, the present writ petition has been filed.

2.The second respondent acquired the lands of various land owners including that of the petitioner. L.A.O.P.No.220 of 2003, etc., have been disposed of by a common award dated 31.03.2006, of which, the petitioner's claim was also one such. Against the award passed in favour of the petitioner in L.A.O.P.Nos.572, 576, 577 and 584 of 2003, appeals have been filed in A.S.Nos.85 to 88 of 2008. This Court, by a common order in A.S.Nos.80 to 104 of 2008, was pleased to allow the appeals in part. Needless to state all the land owners shall have been fixed the same compensation in proportionate to the extent of land owned by them. Unfortunately, the petitioner did not approach the Apex Court as done by some other land owners in Civil Appeal Nos.7852-7853 of 2011.

3.By an order dated 12.09.2011, the judgment and decree rendered by this Court were set aside by restoring the order passed by the Reference Court in its entirety. The following paragraph would be apposite:

In the result, the appeals are allowed, the impugned judgment is set aside insofar as the High Court Ordered 53% deduction towards development charges and the order passed by the Reference Court is restored in its entirety. The respondents shall pay the balance amount, if any due, to the appellants within a period of three months from the date of receipt/production of a copy of this judgment. The amount should be paid to the appellants by way of demand drafts drawn on a Nationalized Bank. The parties are left to bear their own costs.

4.In compliance with the order passed by the Apex Court, all other owners except a few like the petitioner got the compensation fixed by the Reference Court. However, the petitioner did not get the same though the same assessment has been made for his land also along with those who are parties to the decision of the Apex Court. This was for the reason the petitioner did not approach the Apex Court. Therefore, the present writ petition is filed.

5.Learned counsel appearing for the petitioner would submit that on that fact, there is no dispute that the petitioner stands on the same footing. Once the judgment and decree of this Court is set aside the consequence would follow. Learned counsel appearing for the first respondent would submit that this is a matter to be decided in the execution petition to be filed by the petitioner.

6.The facts as narrated are not in dispute. The valuation fixed by the Reference Court is same. The judgment and decree of this Court is also uniform with respect to all the land owners. The said judgments rendered by this Court have been set aside by the Apex Court. Resultantly, the Reference Court's order has been restored. It has been restored in entirety and therefore, no technical interpretation can be given. Thus, what is applicable to those who filed the Civil Appeals before the Apex Court and obtained the order is also applicable to the petitioner.

7.In fact, the petitioner filed a writ petition earlier in W.P.No.4589 of 2016 in which the order was passed on 08.02.2016, which reads as follows:

Having regard to the submissions made by the learned counsel on either side and taking into consideration the limited prayer sought for in this writ petition, without expressing any opinion with regard to the merits of the case. I direct the second respondent to consider the petitioner's representation dated 27.01.2016 and pass orders taking into consideration of the judgment of the Hon'ble Supreme Court, on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, impugned order is passed declining to extend the benefit to the petitioner on the premise that the judgment of the Apex Court would not apply to the petitioner's case. Incidentally, it has been stated that Section 28 A of the Land Acquisition Act, 1894 stands on a different footing to Section 54 of the Act.

9.The impugned order cannot be sustained for more than one reason. Even, as per the said order, it is clear that petitioner is in the same position as that of those who got orders from the Apex Court. The said order is a judgment in rem as the Reference Court's order has been restored in entirety. Section 54 of the Land Acquisition Act, 1894 merely speaks about the availability of appeal. In other words, the said section does not prohibit the entitlement of the party by restricting it only to those who approached the Apex Court. To put it differently, the judgment which has been overturned cannot be applied in part to the similarly placed persons. Now the respondents want indirectly to implement the judgment and decree of the Division Bench which has been reversed by the Apex Court. Such an action is impermissible in law. Even before the Apex Court, the petitioner was a party, though as a respondent. Thus, even in law, what is

available to the appellant therein shall also be available to the respondent who is similarly placed.

10. Accordingly, the impugned order is set aside with liberty to the petitioner to file execution petition before the Reference Court seeking compensation as awarded by it. The writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Managing Director,
SIPCOT,
19-A, Rukmani Lakshmi pathy Road,
Egmore, Chennai-8
2. The Special Tahsildhar,
(Land Acquisition) SIPCOT Unit,
Sriperumbudur Taluk,
Kanchipuram District.

+lcc to Mr.G,Karthikeyan, Advocate, S.R.No.23487
+lcc to the Government Pleader, S.R.No.23527

nmi (co)
rmp (08/05/17)

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W.P.No.35422 of 2016

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