

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.43705 of 2016

- 1.S.Rajarajan
- 2.S.Balaji
- 3.M.Seetharaman
- 4.G.Santhanam
- 5.S.Kasthuri
- 6.N.Venkatesan
- 7.M.Venugopal
- 8.M.Sivakumar
- 9.Premakumari
- 10.P.Ramamurthy Naidu
- 11.D.Subburayalu
- 12.Vijaya
- 13.Dhanalakshmi
- 14.S.K.Balaraman
- 15.N.Radhakrishnan

... Petitioners

Vs

- 1.Government of Puduchery,
Rep. By its Chief Secretary,
Puduchery - 605 001.
- 2.The Collector (Revenue),
Puduchery - 605 001.
- 3.The Deputy Collector (Revenue) South-cum-
Land Acquisition Officer,
Villianur, Puduchery - 605 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the third respondent relating to his Order No.2840/LA/SEZ/Court Case/2016, dated 24.11.2016, and quash the same and direct the respondents herein to refer the claim for enhancement of the compensation made by the petitioners with respect to their properties acquired under the Land Acquisition Act, vide Award No.2/2008, dated 25.01.2008, for adjudication under Section 18 of the Act before the Court of law as made out in their respective representations addressed to the third respondent, or in the alternative to restore possession of their lands acquired under Section 17 of the Land Acquisition Act, as the same are not used for the purpose for

which it was acquired till date.

For petitioner : Mr.R.Venkatajalapathy
For Respondents : Mr.C.T.Ramesh, AGP (Puducherry)

O R D E R

By way of filing this writ petition, the petitioners seek to challenge the impugned order dated 24.11.2016 passed by the third respondent / the Deputy Collector (Revenue)-cum-Land Acquisition Officer, Villanur, Puducherry, in and by which, the request of the petitioners seeking to refer their claim for enhancement of compensation in respect of their properties acquired under the Land Acquisition Act vide Award No.2/2008, dated 25.01.2008, before the Civil Court was rejected.

2. Heard the learned counsel appearing on either side.

3. It is seen that the third respondent, by invoking Urgency Clause, issued Section 4(1) Notification dated 24.03.2005, had acquired a total extent of 309.64.27 hectares of lands, including an extent of 10.53.90 hectares (26.03 acres) of lands belonging to the petitioners for the purpose of setting up Special Economic Zone at Karasur and Sedharapattu Villages, Puducherry. Thereafter, as per Section 17(3-A) of the Land Acquisition Act, 80% advance payment was made to the petitioners commencing from 23.10.2006 to 10.01.2007. On receiving the same, the petitioners questioned the quantum of compensation offered by the third respondent, but, there was no response. Subsequently, they have received notices under Section 12(2) of the Land Acquisition Act communicating the payment of balance 20% of the compensation as determined in the Award No.2/2008, dated 25.01.2008 passed by the third respondent. However, it is stated that the third respondent did not produce a copy of the said Award to the petitioners.

4. Similarly placed other land owners covered in Award No.2 of 2008, as that of the petitioners, have filed a Writ Petition No.24668 of 2014 seeking a direction to the third respondent to refer the similar claim for enhancement of compensation for adjudication under Section 18 of the Land Acquisition Act. The respondents resisted the claims as done in the present writ petition taking a stand that objections of the land owners prior to the passing of the Award is premature and that as no notice seeking reference has been made after the passing of the Award, the claims for reference under Section 18 cannot be entertained as the same were premature / barred by limitation. This Court, by deprecating the said objections taken by the respondents, allowed the said writ petition by order dated 16.02.2016 and issued a direction to the third respondent to refer the claims of the petitioners therein for

adjudication under Section 18 of the Land Acquisition Act. Relevant portions of the said judgment of this Court are extracted below:

"16.The facts mentioned in the preceding paragraphs will clearly show that at the first instance the petitioners have expressed their dissatisfaction to the quantum fixed. The lands having been acquired by invoking the provisions under section 17 of the Act, the urgency clause, the objections which were given by the petitioners on 18.07.2006 should enure to their benefit and the period of limitation should be calculated from the said date as the compensation amount of 80% given to the petitioners by the second respondent, which is a pre-condition under section 17(3A) of the Act is towards compensation and the remaining balance is only payable after the Award is passed.

17.In the light of the above, the Writ Petition is allowed and the second respondent is directed to refer the petitioners request to the Civil Court for determining the claim for enhanced compensation. The above direction shall be complied with by the second respondent, within a period of three months from the date of receipt of a copy of this order. No costs."

5. In the case on hand, as the petitioners are also covered by the same Award No.2 of 2008, dated 25.01.2008, this Court, by following the above said judgment of this Court, directs the second respondent to refer the request of the petitioners to the Civil Court for determining the claim for enhanced compensation. Such direction shall be complied with within a period of two months from the date of receipt of a copy of this order. Accordingly, the writ petition is allowed. No Costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Secretary,
Government of Puduchery,
Puduchery - 605 001.

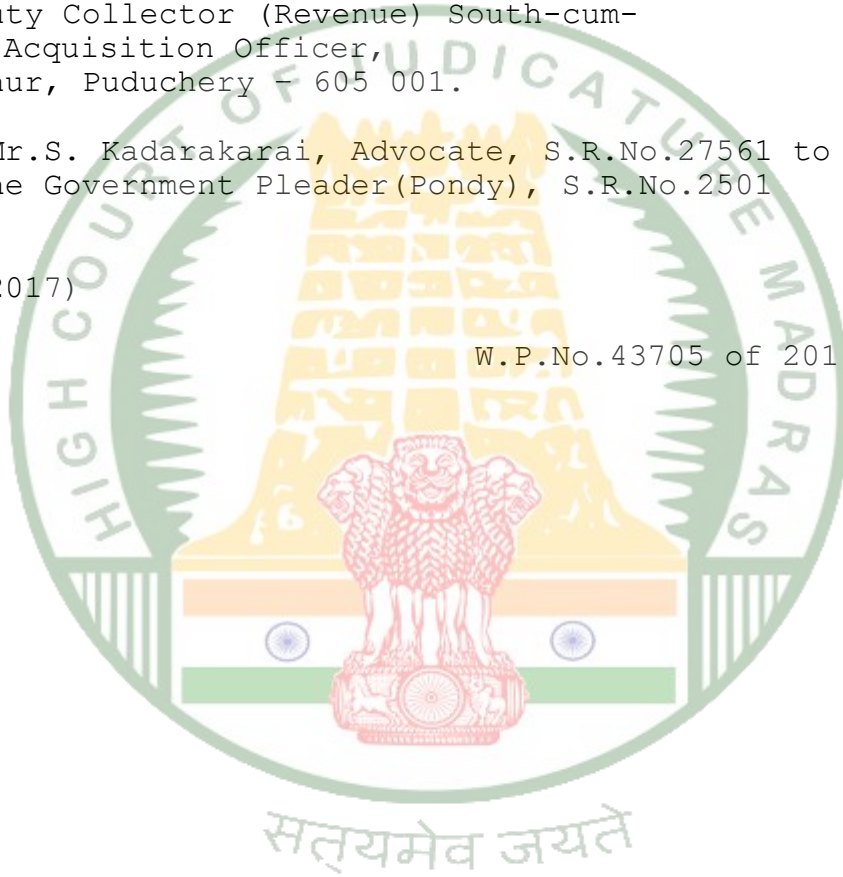
2.The Collector (Revenue),
Puduchery - 605 001.

3.The Deputy Collector (Revenue) South-cum-
Land Acquisition Officer,
Villianur, Puduchery - 605 001.

+15cc to Mr.S. Kadarakarai, Advocate, S.R.No.27561 to 1882
+1cc to the Government Pleader (Pondy), S.R.No.2501

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md(30/01/2017)

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