

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.16726 OF 2004 and
WPMP.No.19787/2004

C.Venugopal Naidu

... Petitioner

Vs

1. The Collector,
Cuddalore District,
Cuddalore-1.

2. The Special Tahsildar
(Land Acquisition (No.4) TACID),
Revenue Divisional Office,
Jail Road, Cuddalore-1.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to refer the matter to the Civil Court under Section 18(1) of the Land Acquisition Act for the fixation of just, reasonable and fair compensation towards the land bearing R.S.No.112/5, measuring 0.07.0 acres situate in Andarmullipallam Village, Cuddalore Taluk, Cuddalore District.

For petitioner : Mr.M.Kumaravelu
for Mr.K.Surendranath
For respondents : Mr.A.Zakkir Hussain,
Government Advocate

O R D E R

The present Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to refer the matter to the Civil Court under Section 18(1) of the Land Acquisition Act for the fixation of just, reasonable and fair compensation towards the land bearing R.S.No.112/5, measuring 0.07.0 acres situate in Andarmullipallam Village, Cuddalore Taluk, Cuddalore District.

2. The brief facts of the case are as follows:

(a) The land bearing R.S.No.112/5 situate in Andarmullipallam Village, Cuddalore Taluk, measuring 0.07.0 Ares belongs to the mother of the the petitioner. After her death during the year 1991, in the oral partition that took place between the family members of the petitioner, the above said land was allotted to the share of the petitioner.

(b) While so, the respondents sought to acquire lands for the purpose of establishing the Industrial Complex. Accordingly, the Negotiation Body of the Tamil Nadu Industrial Establishment Corporation made a request to the State Government for the purpose of acquisition in which the Government issued G.O.Ms.No.850, Industries (MII) Department, dated 8.12.98 and Section 6 declaration bearing G.O.Ms.No.712, Industries (MII) Department dated 23.9.1999. Thereafter, an Award Enquiry Notice was also issued and the petitioner participated in the Award Enquiry and submitted his written statement claiming a sum of Rs.50,000/- as being the cost of the land and a sum of Rs.89,250/- towards the cost of the usufructs from the Cashew Plantations. However, without considering the representation made by the petitioner, the 2nd respondent had passed the award dated 17.04.2000 granting only Rs.8,997/-. Aggrieved by the same, the petitioner sent a representation dated 16.07.2000 requesting the Land Acquisition Officer to refer the matter to civil court under Section 18(1) of the Land Acquisition Act for enhancement of compensation.

© Further, there is a dispute in between the owners of the property. Since the property stand in the name of the petitioner's mother, the Land Acquisition Officer referred the matter under Section 31(2) of the Land Acquisition Act for apportionment of compensation. In the meanwhile, the petitioner also filed a suit in O.S.No.277/1999 on the file of the District Munsif, Cuddalore for declaration and for other reliefs. That suit is decreed in his favour on 21.11.2002.

(d) The reference made by the Land Acquisition Officer for apportionment of compensation has also come to an end by filing L.A.O.P.No.29/2003 and the sum was deposited in the Fast Track Court at Cuddalore. Though the authorities concerned referred the matter under Section 31(2) of the Land Acquisition Act, the respondents did not refer the matter under Section 18 (1) of the Land Acquisition Act as prayed for by the petitioner. Hence, the present Writ Petition.

3. The 2nd respondent has filed a counter affidavit in which is has been specifically stated as follows:

'The reference was made by this respondent under Section 18(1) of the Land Acquisition Act and the LAOP.No.170/2000 before the Sub-Court, Cuddalore, was also closed on 1.4.2003 for the non-submission of statement by the claimant. Therefore, the writ petition filed before the High Court may be dismissed in the interest of justice. This respondent has already referred the matter to the Civil Court under Section 18(1) of the Land Acquisition Act for higher compensation in S.No.112/5 and hence the writ petition may be dismissed by this Hon'ble Court.'

4. On a perusal of the above counter affidavit, it is clear that the 2nd respondent had already referred the matter

under Section 18(1) of the Land Acquisition Act and the L.A.O.P.No.170/2000 before the Sub-Court, Cuddalore, was also closed on 1.4.2003. However, it is seen that in the Notice dated 26.02.2001, issued by the Subordinate Judge, Cuddalore, under Section 15 of the Land Acquisition Act of 1894 in LAOP No.170/2000, the Survey Number of the petitioner's land i.e.112/5 has not been mentioned.

5. Section 18(1) of the Land Acquisition Act reads as follows:

'18. Reference to Court - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.'

6. For this purpose, the Court has to mainly satisfy as to whether the petitioner made a representation within a period of six weeks from the date of the award passed by the District Collector. On a perusal of the typed set, it appears that the award was passed on 17.04.2000 in which paragraph 24 of the award, it is stated that since a dispute regarding the title also is pending before the competent civil court and there is a dispute in between the Legal Heirs of the petitioner, he referred the matter under Section 31(2) of the Land Acquisition Act. However, the Land Acquisition Authority has not mentioned about the enhancement of compensation. However, as per Section 18(2)(b) of the Act, within six months from the date of the award, the aggrieved person can make a representation to the District Collector for referring the matter under Section 18(1) of the Act. Accordingly, the petitioner made a representation on 16.07.2000 and specifically requested the Land Acquisition Officer to refer the matter under Section 18(1) of the Land Acquisition Act for enhancement of compensation. But, a perusal of the given counter affidavit would go to show that the matter

was not referred for enhancement of compensation.

7. For the reasons stated above, I am inclined to issue a direction to the 2nd respondent to refer the matter under Section 18(1) of the Land Acquisition Act to the competent civil court for deciding the enhancement of compensation within a period of six months from the date of receipt of a copy of this Order considering the fact that the writ petition is pending for a long period.

8. Accordingly, the writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

tsi

To

1. The Collector,
Cuddalore District,
Cuddalore-1.
2. The Special Tahsildar
(Land Acquisition (No.4) TACID),
Revenue Divisional Office,
Jail Road, Cuddalore-1.

+1 CC GOVT. PLEADER HIGH COURT MADRAS SR.No.63021/2017
+1 CC Mr.K.Surendranath Advocate SR.No. 62229/2017

CA (CO)
EGR 28/10/2017

W.P.No.16726 of 2004

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