



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2017

CORAM:

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.A(MD)No.1115 of 2013

P.Subathra Devi

... Appellant/Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by the Commissioner and Secretary
to the Government,
Housing and Urban Development Department,
St. George Fort,
Chennai - 9.
2. The Madurai District Collector,
(Land Acquisition),
Madurai Collectorate Campus,
Madurai District.
3. The Special Tahsildar,
Land Acquisition,
Madurai South,
Thoppur Village Scheme,
Madurai Collectorate Campus,
Madurai District.
4. The Managing Directorate,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam,
Chennai.
5. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 6.

... Respondents/Respondents

Prayer:- Writ Appeal is filed under Clause 15 of Letters Patent against the order, dated 03.11.2011 passed in Writ Petition(MD) No.12520 of 2011 on the file of this Court.



Prayer in WP(MD). 12520/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to pay compensation as per today's market value for petitioner's land admeasuring 6 cents, comprised in Survey No.62/1 AAAQ in Thooppur Village, Madurai South Circle, Madurai and to reconvey the above said land to the petitioner in case the respondents are not able to pay the compensation as per today's market value together with interest within the time limit which may be fixed by this Honourable Court.

For Appellant : Mr.Y.Krishnan
For RR 1 to 3 : Mr.C.Selvaraj
Special Government Pleader

For R - 4 : Mr.S.Nagarajan

For R - 5 : Mr.R.Janarthanam

JUDGMENT

**(Judgment of the Court was delivered by
V.BHAVANI SUBBAROYAN,J.)**

This Writ Appeal has been filed by the appellant against the order, dated 03.11.2011 passed in Writ Petition(MD)No.12520 of 2011 by the learned Single Judge of this Court.

2.The appellant herein as petitioner has filed Writ Petition (MD)No.12520 of 2011 on the file of this Court under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay compensation as per today's market value for the petitioner's land admeasuring 6 cents, comprised in Survey No.62/1 AAAQ in Thoppur Village, Madurai South Circle, Madurai and to reconvey the above said land to the petitioner, in case, the respondents are not able to pay compensation as per today's market value together with interest within the time limit.

3.The case of the appellant/petitioner is that she is the owner of the land admeasuring 6 cents, comprised in Survey No.62/1 AAAQ in Thoppur Village, Madurai South Circle, Madurai and she has purchased the same by virtue of registered sale deed No.1173, dated 20.03.1975 for construction of a dwelling house and she was in possession and enjoyment of the same without any disturbance or any encumbrance and patta was also issued by the authorities. It is the further contention of the appellant/petitioner that the respondents have acquired the said land without following the provisions of the Land Acquisition Act, 1894 and Land Acquisition



(Tamil Nadu) Rules, 1991 and she could not make objections in time under Section 5A of the Land Acquisition Act, 1894 and under Section 9 of the Land Acquisition Act, 1894 and also to attend the award enquiry under Section 11a of the Land Acquisition Act, 1894 to receive the compensation in time and to make application to the Collector under Section 18 of the Land Acquisition Act, 1894 and to draw the compensation with interest. Further, the appellant/petitioner contended that the Collector has not issued public notice and also no registered post has been issued to the last known address, due to which, she was not able to file her objections. She further contended that neither the notice of award nor the copy of the award was served on her as per Section 12(2) of the Land Acquisition Act, 1894 and the said award amount was not deposited into the Court, under which a reference under Section 18 of the Land Acquisition Act, 1894 would be submitted and instead of depositing the compensation amount in the Court as per Sections 31 and 34 of the Land Acquisition Act and the respondents have deposited the same in the revenue deposit. She admits that even though 4(1) notification and declaration under Section 6 of the Land Acquisition Act, 1894, have been published on 04.08.1985 and 09.10.1986, no individual copy of the notification was served to her and on that ground also she was prevented from making objection under Section 5A of the Land Acquisition Act, 1894 and she would also contend that there is unreasonable delay of 23 years in paying compensation to her and the delay caused not only loss to her and also prejudiced in view of increase in the land value and the delay on the part of the respondents has deprived of the valuable right over the property.

4.The appellant/petitioner further contended that during second week of July, 2007, when she visited her plot, she found that the land has already been acquired by the respondents 1 to 3 and she immediately approached the Special Tahsildar, Land Acquisition, Madurai South and the Executive Engineer, TNHB, Ellis Nagar, Madurai, and she was able to get oral information about the acquisition proceedings and the award amount of Rs.995.20 has been deposited in the revenue account. Immediately, she made representations to the authorities concerned on various occasions from 25.07.2007, 27.01.2009 and also filed petition under RTI Act on 29.01.2010. She received a reply letter on 25.02.2010 from the Revenue Divisional Officer, Madurai South, Madurai, whereby she was informed that her land has been acquired for TNHB Madurai and compensation has been deposited into Revenue deposit. Further, she has also received information from the Executive Engineer, vide letter dated 12.02.2010 that her plot has already been acquired and Award No.9 of 1988, dated 14.10.1988 has been passed and possession of the land was taken on 24.07.1990, only after that, the appellant/petitioner received the copy of the award under RTI <https://hcservices.ecgdn.gov.in/hcservices/> sent a representation on 23.09.2011 to all the respondents requesting them to pay compensation for acquisition of her land as per today's market value with interest or to reconvey



the land which is as on date kept unused and vacant without any development work. Since there was no reply from the authorities, she has knocked the doors of this Court by filing a Writ Petition in W.P(MD)No.12520 of 2011.

5.The learned Single Judge, after hearing the counsel for the appellant/petitioner and the learned Special Government Pleader, has passed a detailed order and dismissed the same on the ground of delay and latches. Against the order passed by the learned Single Judge in W.P(MD)No.12520 of 2011, the appellant/petitioner preferred this Writ Appeal raising various grounds.

6.After perusal of the typed set of papers filed in support of this Writ Appeal and the materials produced by the respondents, it is seen that the Tamil Nadu Housing Board in order to relieve congestion in Madurai City and to form a satellite Town in a hygienic manner, the Tamil Nadu Housing Board proposed South neighbourhood scheme, Madurai and acquired lands at Thoppur and Uchapatti villages under Land Acquisition Act, 1894. The 4(1) notification for this land was approved by the Government in G.O.Ms.No.799, Housing and Urban Development Department, dated 14.08.1985 and the same was published in the Tamil Nadu Government Gazette on 28.08.1985 and it was also published in English Daily viz., Indian Express on 30.08.1985 and Dinamalar in Tamil Newspaper on 30.08.1985. The substance of the same was also published in the locality on 19.10.1985.

7.The Draft Declaration for the above said land was approved by the Government vide G.O.Ms.No.1588, Housing and Urban Development Department, dated 09.10.1986 and the same was published in the Tamil Nadu Government Gazette page Nos.2 to 4 of Extra-ordinary issue No.614, dated 11.10.1986 Part II Section 2 and the same was also published in English Daily viz., News Today on 13.10.1986 and in Tamil Daily viz., Dinamalar on 14.10.1986. The substance of the same was also published in the locality on 15.10.1986. After following the procedures, award enquiry was conducted and an award was passed by the Land Acquisition Officer vide Award No.9 of 1988, dated 28.07.1994. Notice under Section 9 (1) and 10 of the Land Acquisition Act was issued and published in all places of public interest in the prescribed manner. Notices under Sections 9(3) and 10 of the Land Acquisition Act were issued and served on the interested person as per Rules. The Award enquiry was conducted on 16.09.1988, 26.09.1988 and 03.10.1988.

8.As per the award report, the details of the land in Survey No.62/1AAAQ is as follows:-

"The name of Subathra Devi was notified. She has not appeared for the award enquiry. The patta stands registered in her name under holding No.743 (single holding). No other person appeared and claimed title over



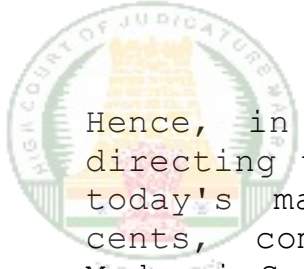
the property. The compensation is payable to the registered holder after detailed enquiry as per rules. The amount of compensation works out as shown below will be kept under revenue deposit."

Sl. No.	S.No.	Extent	Market Value Rs.	Solatum Rs.	Additional Compensation	Total Rs.
1.	S.No. 62/1AAAQ	0.06 acres	600.00	180.00	215.20	995.20

9.The Land Acquisition Officer kept the award amount of the appellant/petitioner in the revenue deposit, since the land owner did not come forward to receive the compensation amount. After passing of the award, the above said lands were handed over to the Tamil Nadu Housing Board on 24.07.1990 by the Land Acquisition Officer. The name of the land owners were changed in the name of the Tamil Nadu Housing Board vide patta No.1250 of Thoppur Village by mutation in the revenue records as per the Land Acquisition Act, 1894.

10.It is seen from the materials available on record that the enquiry under Section 5A was conducted in January and February, 1986 and declaration under Section 6 of the Act was published in the Tamil Nadu Government Gazette on 11.10.1986. The draft direction under Section 7 of the Act was published in the Gazette on 10.12.1986 and an enquiry has been conducted and an award was passed in the year 1988 and from that date more than 23 years have been passed and the appellant/petitioner has approached this Court, after long distance of time and seeking compensation at today's market value on two grounds viz., that the appellant/petitioner did not receive any notice for the award enquiry and in terms of Section 31 of the Act, the compensation amount was not deposited into the Court. The appellant/petitioner has not produced any materials to show that she was not aware of the entire acquisition proceedings and no notice was served on her under Section 9(3) of the Land Acquisition Act, 1894, to prove her case. The averments that she was not aware of the time limit and to file an application to the Collector requesting him to refer the dispute under Section 18 of the Land Acquisition Act has to be rejected on the ground that the acquisition proceedings and payment of award were not challenged.

11.Even if the above said contention is accepted, the appellant/petitioner is not entitled to the market value as on date. The Land Acquisition Act, 1894 makes it clear that the lands acquired under the Act, shall be determined with reference to the date of notification under Section 4(1) of the Act in order to compensate for the time that all the acquisition proceedings, the Act provides for payment of interest as well as solatium at 30%.



Hence, in the above stated circumstances, a Writ of Mandamus, directing the respondents to pay compensation as per today's market value for the petitioner's land admeasuring 6 cents, comprised in Survey No.62/1 AAAQ in Thoppur Village, Madurai South Circle, Madurai and to reconvey the above said land to the petitioner, in case, the respondents are not able to pay compensation as per today's market value together with interest within the time limit, cannot be granted. The petitioner is guilty of delay and laches, after 25 years from the notification under Section 4(1) of the Act and 23 years of passing of the award by the authority. The petitioner ought to have requested the Collector to refer the dispute with regard to the quantum of compensation under Section 18 of the Land Acquisition Act, 1894, within the period prescribed, but having failed to seek such a relief, the appellant/petitioner cannot knock the doors of this Court. The learned Single Judge has rightly dismissed the Writ Petition and we are of the considered opinion that the Writ Appeal is not maintainable and the same is liable to be dismissed on the ground that after a long delay of 23 years, without assigning any valid reasons for the delay and laches.

12.Further, the appellant/petitioner has stated that she was not residing at Madurai at that point of time and due to her husband's occupation as Engineer/consultant, she was travelling to various places. That is the reason why, the delay has caused in approaching this Court cannot be accepted as there was no valid proof and evidence was produced to that effect.

13.At this juncture, it is apt to mention the Division Bench Judgment of the Honourable Apex Court in **Northern Indian Glass Industries Vs. Jaswant Singh** reported in **(2003) 1 SCC 335**, in which it is decided that whether the Writ Petition filed after 17 years of issue of a notification under Section 4 could be entertained. The Apex Court has held that such a writ petition must not be entertained. It is held that the writ petition must be dismissed on the grounds of delay and laches itself. It is held that mere non-payment of enhanced compensation or the fact that the land had not been put to use for the purpose for which it was acquired would be no ground for justifying delay and laches. Absolutely there is no explanation for the delay and laches for over 23 years by the appellant and this Court finds no leniency should be shown in the Writ Petition and the learned Single Judge has rightly rejected the Writ Petition on the ground of delay and laches. We do not find any error in the order passed by the learned Single Bench to interfere with the order and no infirmity or illegality is found in the order of the learned Single Judge and hence, this Writ Appeal is liable to be dismissed with costs of Rs.5,000/- (Rupees Five Thousand Only) for having chosen to ventilate her grievance after a long period of 23 years, when there is no valid reason for entertaining this Writ Appeal. The



costs amount to be paid by the appellant/petitioner to the Chief Justice Relief Fund, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

14. In the light of the above factual position of the matter, this Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. State of Tamil Nadu,
Rep. by the Commissioner and Secretary
to the Government,
Housing and Urban Development Department,
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5. The Executive Engineer,
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Ellis Nagar,
Madurai - 6.

Copy to

The Section Officer,

<https://hcservices.mca.gov.in/hcservices/>

Madurai Bench of Madras High Court,
Madurai.



+2cc to Mr.Y.Krishnan, Advocate Sr.No.83447,83222
+1cc to Mr.R.Janarthanam, Advocate Sr.No.83114
+1cc to Spl.Government Pleader Sr.No.83304

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W.A(MD)No.1115 of 2013
23.10.2017