

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.5443 of 2018
and
W.M.P.Nos.6709 & 6710 of 2018

E.Arasu

..Petitioner

Versus

1. The State of Tamil Nadu,
represented by its
Secretary to Government,
Highways and Minor Ports Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Tiruvallur District,
Tiruvallur.
3. The District Revenue Officer,
Tiruvallur District,
Tiruvallur.
4. The Revenue Divisional Officer,
Ambattur Sub-Division,
Ambattur.
5. The Tahsildhar,
Maduravoyal.
6. The Divisional Engineer,
(Highways),
Tiruvallur District,
Tiruvallur.
7. The Assistant Engineer,
(Highways),
Ambattur Subdivision,
Ambattur.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Certiorarified Mandamus calling for connected records from the file of first respondent and quash the Government Order published vide

G.O.Ms.59 dated 29.05.2014 and further quash the impugned notice dated 31.12.2014 vide Na.Ka.21489/2014/F1 passed by the fifth respondent and quash the impugned order No.1/2017 vide Na.Ka.No.4277/2014/B1 dated 14.12.2017 passed by the fifth respondent and to direct the respondents to make equitable acquisition and further compute compensation afresh having regard to the total compensation and other benefits payable as per Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.R.Karthikeyan

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

ORDER

1.1. The case of the petitioner is that he owned a piece of land measuring 4,340 Sq.ft (423 sq.mts) in old Survey No.383/1 correlated to New Survey No.640/30 in Alapakkam Main Road, Alappakkam Village, Tiruvallur District which he purchased under the sale deed dated 27.04.2007.

1.2. While so, the petitioner received a Notice dated 31-12-2014 which provided a vague intimation of the intention of the first respondent to acquire the land under the provisions of Tamil Nadu Highways Act, 2001. The petitioner's property is located abutting the Alapakkam Road connecting the Arcot Road and Poonamallee High Road. The need for acquisition of petitioner's property is tainted with ulterior motive. Responding to the aforesaid notice, the petitioner submitted his written objection dated 21.01.2015 to the third respondent and required it to make an equitable acquisition of acquiring equal extent on either side of the road.

1.3. Further, if the first respondent really wanted the extension of Alapakkam Road, then, they ought to have acquired the land over a stretch of 2.9 Kms from Arcot Road to Poonamallee High Road. However, despite lodging the objection, the third respondent did not inform about what transpired, and how the objections were considered. Thereafter, petitioner was served with a Notice dated 14.12.2017 informing him of passing of an interim award. The said interim award refers to G.O.Ms.59 Highways and Minor Ports (HF 1) Department dated 29.05.2014 by which the respondents are directed to pass an interim award pending quantifying of compensation payable under the Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) (hereinafter referred to as "Right to Fair Compensation Act"). The petitioner has now come forward challenging the aforesaid G.O.Ms.No.59 Highways and Minor Ports (HF 1)

Department dated 29.05.2014 and the interim award passed pursuant to it.

2. The learned counsel for the petitioner submitted that;
a) There is no provision for passing an interim award under any of the enactments for land acquisition;

b) That after passing the Central Act 30 of 2013, it is no more competent for the Government to acquire the land under Tamil Nadu Highways Act, 2001, which even as per the original intent was to have an extended life only for a year, from 01.01.2014 to 31.12.2014.

(c) At any rate, compensation should be quantified and payments shall be made in terms of the Right to Fair Compensation Act, and the possession shall not be disturbed until the entire compensation is paid consistent with Central Act 30 of 2013.

3. Mr.Akhil Akbar Ali, the learned Government Advocate, appearing for the respondents submitted on instructions that compensation would be paid in terms of the Right to Fair Compensation Act. The passing of the interim award was necessitated to negotiate the transition period occasioned due to the commencing of the Right to Fair Compensation Act on 01.01.2014.

4. In views of the statement of the learned Government Advocate, the counsel for petitioner submitted that petitioner would settle for compensation in terms of the Right to Fair Compensation Act.

5. This Court therefore, directs the third respondent to issue notice to the petitioner at the address given in the Writ Petition within a period of three months from the date of receipt of a copy of this order, then after affording all just reasonable and effective opportunity to the petitioner to participate in an enquiry for quantifying the compensation and passing the award as per the principles statutorily provided under Right to Fair Compensation Act, whereinafter, to pay the amount so quantified, that may become payable for adjusting the amount, if any paid under the interim award, within a period of three months thereafter, failing which, the third respondent shall appear in person before this Court and explain why this order is not complied with.

6. Accordingly, this Writ Petition is disposed of with above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

mrr

To

1. The Secretary to Government,
Highways and Minor Ports Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Tiruvallur District,
Tiruvallur.
3. The District Revenue Officer,
Tiruvallur District,
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Tiruvallur.
7. The Assistant Engineer,
(Highways),
Ambattur Subdivision,
Ambattur.

+1 CC to Mr.K. Kathikeyan, Advocate sr 19836.

+1 CC to Govt. Pleader sr 21864.

W.P.No.5443 of 2018

RRK(23/03/2018)