

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.9451 of 2017

and

W.M.P.No.10402 of 2017

M/s.Sundaram Finance Limited,
Represented by its
Senior Manager (Legal),
Mr.Madhusudhanan,
No.21, Patullos Road,
Chennai-600 002. Petitioner

Vs

The Deputy Collector (Revenue) South-cum-
Land Acquisition Officer,
Special Economic Zone,
Office of the Deputy Collector,
Villianur,
Puducherry-605 110. Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent and to quash the order No.435/DCRS/LA/SEZ/DT/2017, Villianur, dated 09.02.2017 and further direct the respondent to refer the claim of the petitioner to Civil Court under Section 18(2)(b) of the Land Acquisition Act, 1894 having competent jurisdiction.

For Petitioner : Mr.K.Krishnaswamy
For Respondent : Mr.J.Kumaran
Government Advocate (P)

O R D E R

The petitioner is a Company registered as a non-banking financial institution and is a mortgagee of 68.22 acres spread over several survey numbers and that they originally belonged to M/s Balaji Hotels and Enterprises Limited. The said Balaji Hotels mortgaged these properties for securing the loans that the petitioner had advanced. Be that it may, the said property

was acquired by the respondent invoking Sec.17 of the Land Acquisition Act, 1894, that the mortgagor/ owner of the property had made necessary requests to the respondents to pay compensation that would payable to the petitioner.

2. As per Sec.17(3) of the Act, 80% compensation payable was disbursed to the petitioner on 12.07.2006, and this has received by the petitioner under protest. It has also indicated then of its intention to seek enhancement of the compensation. Secondly, the award was passed on 25.01.2008 and the passing of the award was communicated on 05.02.2008, when the respondent issued notice under Section 12(2). The petitioner has been reminding the respondents through the representations dated 24.11.2011, 17.04.2012, 24.02.2012, 05.12.2012 and 16.01.2017 for referring the matter to the concerned Civil Court under Section 18 of the Land Acquisition Act, 1894 and the same was not done. Hence, the petitioner has approached this Court for issuing direction to the respondent to refer the matter under Sec. 18 of the Land Acquisition Act.

3. In the counter, it is inter alia contended by the respondent that the petitioner is hit by laches inasmuch as the petitioner is seeking enhancement not within the stipulated time of six months since the respective notice under Section 12(2) but conveniently thereafter.

4. The learned counsel for the petitioner submitted the fact that the petitioner has received a portion of the compensation only under protest and had also indicated its intention to seek enhancement of compensation. Vide its communication dated 20.07.2006 when he acknowledged the receipt of the payment of 80% compensation. This is adequate enough notice for the authorities to act and to Refer the matter under Section 18 of the said Act. It is brought to the notice of this Court in the case of V.Ramalingam and two others Vs. Government of Puducherry (W.P.No.24668 of 2014), wherein a learned Judge of this Court, facing an identical facts-situation has held that at the earliest point of time the petitioners in that case had expressed their dis-satisfaction about the quantum of compensation fixed and the said representation seeking enhancement even though made pre-maturedly would be adequate for invoking Sec.18. After satisfying the said order, the respondent has preferred an appeal in W.A.No.1342 of 2017 and the said order of the learned Single Judge was confirmed by the Bench vide order dated 02.11.2017.

5. Inasmuch as the Division Bench of this Court has already held in an identical facts-situation and that too arising from the same acquisition proceeding, the request made at the earliest point of time seeking Reference when the petitioner had received

80% of the compensation payable under Section 17(3) of the Land Acquisition Act, 1894 is adequate.

6. Accordingly, this writ petition is allowed and the respondent is directed to refer the matter to the concerned Civil Court and the petitioner's request for Referring the matter under Sec. 18 of the Land Acquisition Act, within four weeks from the date of receipt of a copy of this order, and on receipt, the Reference Court shall treat the same as if it was made on time, and shall grant all statutory benefits that the petitioner would be entitled to in the same way as if the Reference was made in time. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssn

To

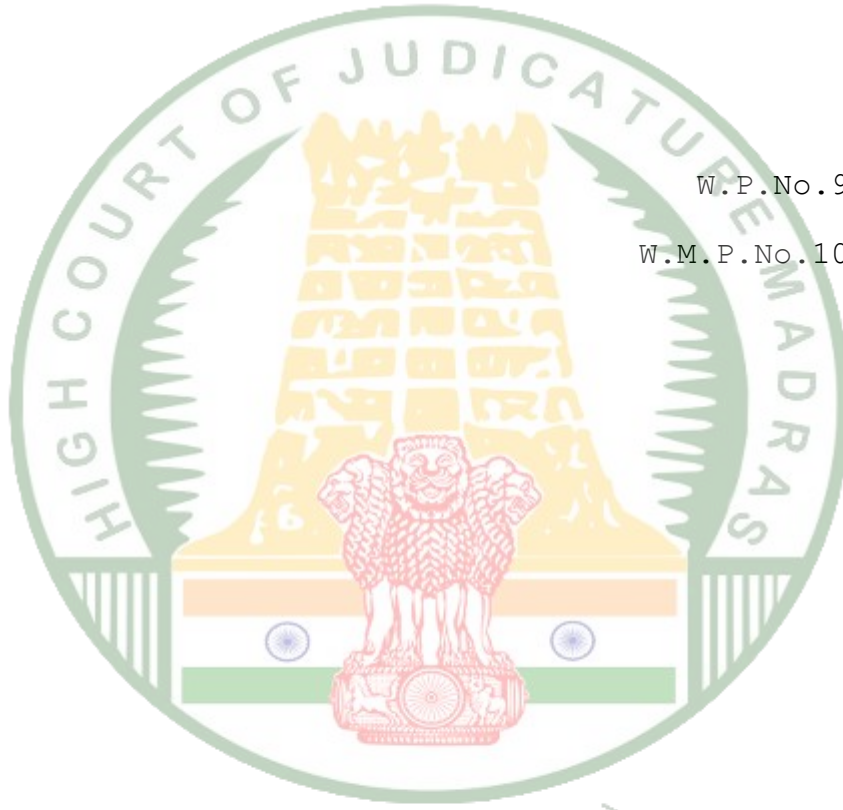
The Deputy Collector (Revenue) South-cum-
Land Acquisition Officer,
Special Economic Zone,
Office of the Deputy Collector,
Villianur,
Puducherry-605 110.

+lcc to Mr.S.Vasudevan, Advocate, S.R.No.9029
+lcc to the Government Pleader, S.R.No.8965

RRK(08/03/2018)

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