

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1430 OF 2018

1 THE DISTRICT COLLECTOR
VELLORE DIST. VELLORE

2 THE SPECIAL TAHSILDAR
ADI-DRAVIDAR WELFARE
THIRPATHUR

... appellants

versus

V.LALITHA

... respondent

Appeal filed against the order passed by this Court dated 12.08.2009 in W.P.No.13341/2009. Writ petition has been filed under Article 226 of the constitution of India praying for the issuance of a writ of Mandamus directing the 2nd respondent to pay the enhanced amount of Rs.5,39,688/- with 6% interest from the date of 4(1) notification till the date of award and 12% interest from the date of award till the date of payment as per the Judgement in LAOP 3/97, Sub Court, Thirupathur, Vellore District.

For appellant : Mr.P.H.Aravind Pandian,
Additional Advocate General
assisted by Mr.N.Manikandan,
Gov Advocate

For Respondents : Mr.Sanjeev Kumar K.V.,
for M/s.Royal Law Associates

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

Introduction:-

The mighty State used to acquire the land with a promise to pay compensation to the landowners immediately, after passing the award. The poor landowners, with a fond hope that they would receive the market value with solatium and interest for the acquired land, would handover possession without any kind of protest. The intra court appeal before us indicates that these are all empty promises and the landowners have to spend considerable amount of time and money for litigation, spread over several years, to enjoy the fruits of the award determining compensation. In the subject case, the landowner is still in

court claiming compensation for the land acquired by notification dated 3 April 1996. It was only when we directed the District Collector, Vellore, to pay the compensation amount with interest by 16 July 2018, failing which, he must appear in person before us on 17 July 2018, that the State machinery moved, resulting in paying a sum of Rs.30,53,095/- on 20 July 2018 to the landowner, a senior citizen, 22 years after the acquisition.

The facts:-

2. The Government of Tamil Nadu acquired 2.84 acres of land owned by the respondent in S.No.105/3, Valayampattu Village, Vellore District, for distributing house sites to the Adi Dravidars, as per notification dated 3 April 1996. The award determining compensation was passed on 27 March 1997, fixing the total compensation at Rs.3,32,412/-. The matter was referred to the Civil Court under Section 18 of the Land Acquisition Act for redetermination. The Reference Court by award dated 30 April 1999, refixed the compensation at Rs.7,33,989/-. Though the amount fixed by the Land Acquisition Officer was paid to the respondent, the enhanced amount remain unpaid on the ground that the State is contemplating to file an appeal before the High Court.

3. The respondent filed execution petition No.103/1999 to execute the award in LAOP No.3/1997. The Executing Court attached the movables belonging to the Special Tahsildar. Since it was valued only at Rs.15,500/-, the respondent could not execute the award in its entirety.

4. The respondent left with no other remedy, filed a Writ Petition before this Court for issuance of a Writ of Mandamus, directing the State to pay compensation awarded by the Sub Court, Thirupattur. The Writ Petition was allowed by the learned Single Judge by order dated 12 August 2009 in W.P.No.13341/2009. Feeling aggrieved, the District Collector, Vellore, filed this intra court appeal, after nine years.

Subsequent events:-

5. When the intra court appeal came up for admission on 10 July 2018, considering the plight of a landlady, who parted with her valuable land in 1996, we passed the following order.

It is a matter of concern that the landowner whose land was acquired by notification dated 21 July 1997 is still wandering in the corridors of this Court seeking compensation. The mighty State is dragging the claimant from pillar to post on technicalities.

2. We direct the District Collector, Vellore, to pay the entire compensation awarded by the reference Court with interest by 16 July 2018, failing which, he shall appear in person on 17 July 2018.

6. The District Collector, Vellore, thereafter filed an affidavit to the effect that the Land Acquisition Officer has already deposited a sum of Rs.12,24,504/- before the Reference Court and undertook to pay the remaining amount to the respondent. However, we made it clear to the learned Additional Advocate General, who appeared for the District Collector, that it was only to cause further delay in the matter, and to drag the landlady from pillar to post, the amount was deposited before the Reference Court without any justifiable reason and as such we would not agree to any thing short of paying the entire compensation of Rs.30,53,095/- to the landlady directly. In view of the stand taken by this Court, the District Collector agreed to pay the entire amount to the respondent directly and filed an undertaking affidavit to that effect on 18 July 2018. Accordingly, the following order was passed on 19 July 2018.

The District Collector, Vellore, filed an undertaking affidavit dated 18 July 2018, undertaking to pay a sum of Rs.30,53,095/- to the respondent by 23 July 2018. The affidavit is taken on record.

Post on 24.07.2018 for reporting compliance, failing which, District Collector, Vellore, shall appear before this Court on 25 July 2018.

7. When the appeal is taken up for further hearing today, the learned Additional Advocate General produced a copy of the order sanctioning the amount due to the landowner and acknowledgment given by the respondent in token of receiving a sum of Rs.30,53,095/- in full and final satisfaction of her claim. The amount was paid by cheque no.042276 dated 20 July 2018, drawn on State Bank of India, Thirupattur.

Legality of the order under appeal:-

8. The appellants have come up with this appeal primarily on the ground that the remedy in a case of this nature is only to prosecute the execution petition and Writ Petition is not maintainable. In short, the appellants wanted this court to relegate the respondent to the execution court and make the landlady to wait there indefinitely seeking compensation. It is a matter of record that in spite of filing execution petition in the year 1999, the appellant have not cared to deposit the compensation amount before the Executing Court.

9. There is no dispute that remedy under Article 226 of the Constitution of India is discretionary in nature. It is otherwise called as "equity jurisdiction". When it was found that the State, instead of paying compensation to the landowner, dragged her from pillar to post, the learned Single Judge considered it fit to entertain the Writ Petition by exercising the discretion, notwithstanding the alternative remedy. The Constitutional Court in a matter of this nature must extend its helping hand to the landowners who are wandering in the corridors seeking compensation for acquiring their land. We are

therefore of the view that the learned Single Judge was justified in entertaining the Writ Petition and issuing a Writ, directing the appellants to pay compensation.

10. In view of Article 300A of the Constitution of India, right to receive compensation for depriving the ownership and possession of property is a basic right of the landowner. There is no point in calculating the land value, taking into account the prevailing market value during the relevant period of acquisition and making payment after considerable period. The landowner would not be in a position to purchase suitable land given the increase in land value by the time the compensation was actually paid to her. It was only to mitigate the hardship, the parliament has passed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Even after notifying the new Act, steps have not been taken to pay compensation determined long ago under the special statute.

11. The State, in this case, instead of assisting the landowner to receive the compensation for the acquired land, took an unreasonable stand and made the respondent to initiate litigations one after another. The only sin committed by the landlady was her act of purchasing property and keeping it in her possession, which was ultimately acquired by the State. It took 22 years to the landlady to receive the compensation and that too only due to the intervention of this Court. We hope that the concerned authorities at least in future would avoid unpleasant things of this nature.

12. We permit the Land Acquisition Officer to withdraw the amount deposited on the credit of the relevant execution petition in LAOP No.3/1997, in view of the payment of entire compensation to the respondent in full quit.

13. We place on record our appreciation of the earnest efforts taken by Thiru.S.A.Raman, I.A.S., District Collector, Vellore, and his associates, to comply with our direction to make payment within the stipulated period.

14. The intra court appeal is disposed of with the above observation. No costs. Consequently, connected M.P.s, are closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

To

1 THE DISTRICT COLLECTOR
VELLORE DISTRICT VELLORE

2 THE SPECIAL TAHSILDAR
ADI-DRAVIDAR WELFARE
THIRPATHUR

+1 cc to M/S.Government Pleader SR.No.49972

W.A.No.1430 OF 2018

CNR(CO)
SMI/14.08.2018



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