

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.901 of 2014 and
M.P.No.1 of 2014

The Commissioner,
Tambaram Municipality
Tambaram.

... Appellant

-Vs-

1.R.Rama
2.Dr.R.Arul Anand

3.The State of Tamil Nadu
Rep. by The Secretary to Government,
Land Reforms (Land Acquisition)
Fort St.George, Chennai - 600 009.

4.The Collector,
Kancheepuram District,
Kancheepuram.

5.The Tahsildar,
Tambaram Taluk Office,
Tambaram.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.20111 of 2011 dated 26.03.2014.

Payer in W.P.No.20111/ 2011: Praying issue a writ of mandamus, directing the respondents 1 to 4 to pay the compensation for the land acquired situated at Survey No. 147/1A2A and 1A2B bearing Patta Nos. 2814 and 2815 to an extent of 7.4 cents (3243 Sq.ft.) in Selaiyur Village Tambaram Taluk calculated at the market value as on today with interest at the rate of 24% p.a. calculating from the date the land was acquired in the year 2000-2001 with costs.

For Appellants : Mr.P.Srinivas
For R1 and R2 : No appearance
For R3 to R5 : Mrs.A.Sri Jayanthi
Spl.Govt.Pleader

J U D G M E N T
[Judgment of the Court was made by
K.K. SASIDHARAN, J.]

The appellant in a high handed manner took possession of 3234 sq.ft of land owned by the respondents 1 and 2 (hereinafter referred to as the "land owners") and formed a road. The road was formed during the financial year 2001. Though the appellant passed a resolution on 30 June 2005 resolving to pay compensation to the land owners and made a request to the revenue officials to furnish the value of the property for fixing the compensation, there was no follow up action taken thereafter.

2. The land owners therefore filed a writ petition in W.P.No.20111 of 2011, for issuance of a Writ of Mandamus directing the appellant to pay them compensation. The learned single Judge allowed the writ petition and a Mandamus was issued to the appellant and respondents 3 to 5 to determine the compensation for the acquired land and make the payment within a period of eight months. The order is under challenge at the instance of the local body.

3. The learned counsel for the appellant contended that every effort was taken by the appellant to pay compensation. Since the revenue authorities failed to provide the materials for assessing the compensation, the matter was delayed. According to the learned counsel, the learned single Judge was not correct in directing the appellant to pay the present market rate.

4. None appeared on behalf of the land owners.

5. It is the admitted case of the parties that 7.4 cents equivalent to 3234 sq.ft of land in Selaiyur Village, Tambaram Taluka, covered by patta Nos.2814 and 2815 absolutely belong to the land owners, was taken by the appellant for a public purpose. There was no resistance by the land owners in view of the public purpose for which the land was used. Though the land was utilised during the financial year 2000-2001, the action for payment of compensation itself was taken only on 30 June 2005. The appellant passed a resolution on 30 June 2005 and requested the revenue officials to furnish the value of the property for making payment. The fact that revenue officials failed to give the particulars would not absolve the appellant from the liability of paying compensation to the land owners.

6. There is no dispute that the compensation was not paid till the notification of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "Act 30 of

2013"). The land owners filed the writ petition in 2011. Nothing prevented the appellant from making payment at least after receiving notice in W.P.No.20111 of 2011. The writ petition was disposed of by the Writ Court only after the commencement of the New Act. Since the land value was not paid to the land owners under the Land Acquisition Act, 1894, they are entitled to the land value under Act 30 of 2013.

7. The learned single Judge was right in directing the appellant to pay the compensation by taking the present market rate. The order was in tune with the provisions of Act 30 of 2013. We do not find any illegality committed by the learned single Judge by directing the appellant to pay the present market value.

8. In the result, the intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
The State of Tamil Nadu
Land Reforms (Land Acquisition)
Fort St.George, Chennai - 600 009.

2.The Collector,
Kancheepuram District, सत्यमेव जयते
Kancheepuram.

3.The Tahsildar,
Tambaram Taluk Office,
Tambaram.

+1cc to Government Pleader SR.No.17131

W.A No.901 of 2014

NRI (CO)
GN(09/04/2018)