

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.32646 of 2017

M/s. Sawan Enterprises,
Represented by its Authorized Signatory,
Mr.Anil Gupta,
2nd Floor, Bashyam Basheer Ahmed Street,
Alwarpet, Chennai - 600 018.

...Petitioner

Versus

The District Collector,
Kancheepuram,
Kancheepuram District.

....Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to dispose of the petitioner's application dated 08.11.2017 within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.G.Krishnakumar

For Respondent : Mr.A.Zakir Hussain,
Government Advocate

O R D E R

The case of the petitioner is that the petitioner is an absolute owner of a piece of property in Survey No.32/3 of Issa Pallavaram Village, Tambaram Taluk. Out of this property, an extent of 1710.84 Sq.ft was acquired for widening the National Highways 45 (N.H.45) and an award was passed in Award No.2 dated 25.04.2007.

2. The award indicated that the acquired lands attracted under the provisions of Tamil Nadu Urban Land Ceiling and Regulation Act and therefore, petitioner's title to receive the compensation was required to be decided and hence, the reference was made to the Sub Court, Tambaram, wherein, the said reference was taken on file in L.A.O.P.No.404/2009. In the meantime, few other owners whose lands were acquired have sought the reference to the Civil Court for seeking enhancement and one such owner namely Mr.P.Ramakrishnan informed the petitioner company that on

06.11.2017, the Sub Court, Tambaram in L.A.O.P.Nos.420 to 439 of 2009 has ordered enhancement of compensation payable with interest and that amount has also been deposited in the Court on 08.08.2017. Therefore, the petitioner moved the first respondent seeking parity in payment of compensation under Section 28-A of the Land Acquisition Act (hereinafter referred to as "LA Act").

3. Mr.G.Krishnakumar, the learned counsel appearing for the petitioner argued that the title was finally decided in L.A.O.P.Nos.420 to 439 of 2009 on 30.04.2013. He also added that the limitation provided under Section 28-A of the LA Act is not an inflexible factor and in appropriate case, delay can be condoned but subject to denying interest for the period of delay. He brought to the notice of the Court and reported the judgment of the Supreme Court in Special Leave to Appeal(C) No (s). 14700/2015 in the case of Karam Chand (Dead) By Lrs. & Anr. Vs. State of Himachal Pradesh & Anr. It is apparent that the petitioner's title in L.A.O.P.No.404 of 2009 was disposed of only in 2013. And according to him, only in November 2017, petitioner came to know of the said decision about the enhancement of compensation ordered in a batch of L.A.O.Ps in L.A.O.P.No.420 to 439 of 2009. It may be said even there L.A.O.Ps were disposed of only on 30.04.2013 and unless the knowledge of passing of the award by the Reference Court in proceedings under Section 18 of the LA Act is brought to the notice of any other owner of land is so preferred Section 18 Reference, it would be difficult for this Court to believe that every person who is entitled to file a petition under Section 28-A of the LA Act would be in knowledge of the award passed by the Reference Court under Section 18 of the LA Act. Otherwise, it will lead to absurd consequence.

5. Mr.A.Zakir Hussain, the learned Government Advocate entered appearance for the respondent and he, on instruction submitted that the petition is delayed by about four years for making his prayer under Section 28-A of the LA Act. He also added that even though the petitioner had made a representation to the first respondent, when the matter was posted on 19.01.2018, the petitioner has only sought an adjournment of proceedings.

6. Considering the entire matter, this Court finds that there is merit in this matter for directing the petitioner to invoke Section 28-A of the LA Act and extend parity in the matter of payment of compensation and apart that, those beneficiaries covered under L.A.O.P.Nos.420 to 439 of 2009 on the file of the Sub Court, Tambaram. It is however made clear that the petitioner would not be entitled to any compensation for the period of delay occasion in preferring his representation under Section 28 of the LA Act.

7. The respondent is directed to dispose of his representation without reference to limitation provided in Section 28-A of the Land Acquisition Act, but subject to the condition that the petitioner would not be entitled to any interest for the period of delay.

8. In the result, this Writ Petition is allowed with the above direction. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

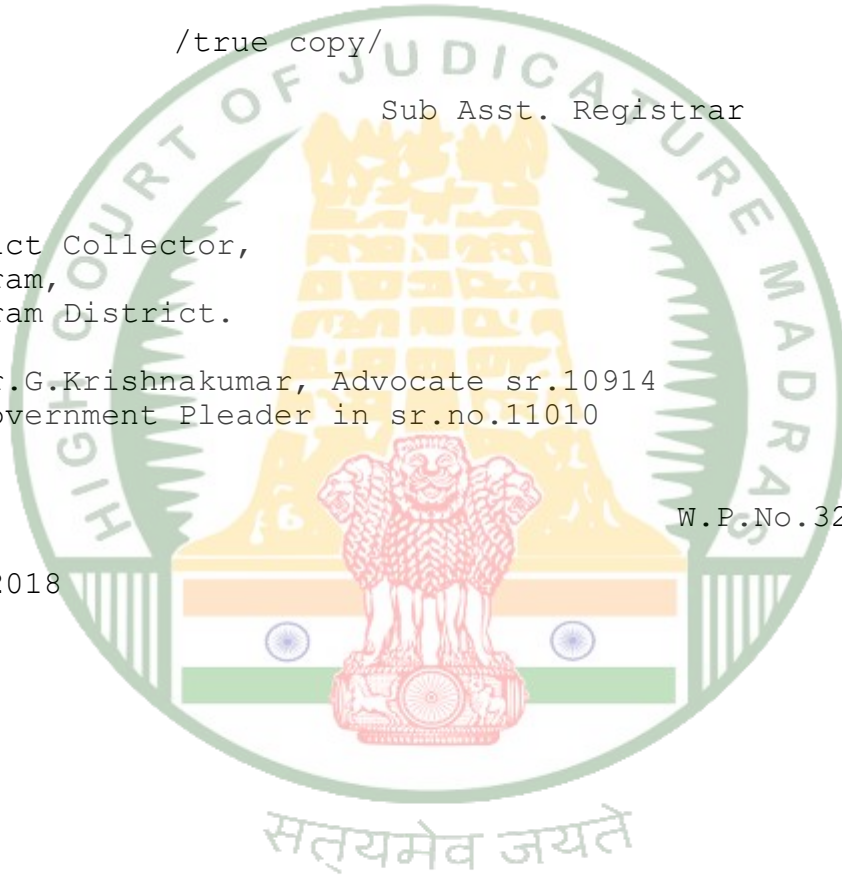
To

The District Collector,
Kancheepuram,
Kancheepuram District.

+1cc to Mr.G.Krishnakumar, Advocate sr.10914
+1cc to Government Pleader in sr.no.11010

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