

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.423 of 2018 and
CMP No.3678 of 2018

- 1.Government of Puducherry
Rep. by its Chief Secretary, Puducherry 605 001.
- 2.The District Collector
Puducherry 605 013.
- 3.The Deputy Collector (Revenue)
South-cum-Land Acquisition Officer,
Special Economic Zone Project
Villianur, Puducherry 605 001. 1 Appellants

-vs-

S.Rajivi Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P.No.26431 of 2016 dated 23.03.2017.

Writ Prayer: Petition filed under Article 226 of the Constitution of India Praying to issue a Writ of Certiorarified Mandamus to call for the records, relating to the passing of Impugned Order bearing No.1040/ LA/ SEZ/ Court Case/ 2009-10 dated 20.05.2010 on the file of the 3rd Respondnet and quash the same and consequently direct the Respondents, to refer the claim of the petitioner seeking enhancement of compensation for the lands acquired, under Award No.2/2008 dated 25.01.2008 as made out in the representations dated 09.02.2007, 28.05.2007 & 16.10.2007, for appropriate adjudication to a competent court of law

For Appellants : Mrs.V.Usha
Addl.Govt.Pleader
(Puducherry)

For Respondent : Mr.S.Kadarkarai

J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN, J.]

The issue raised in this intra court appeal has already been decided by this Court vide judgment dated 2 November 2017 in W.A.No.1342 of 2017.

2.This Court in the earlier round of litigation found that the market value was determined even when 80% of the compensation was paid to the land owners. The land owners have filed application for reference after accepting 80% of the compensation. Their prayer for reference under Section 18 of the Land Acquisition act was not entertained by the Land Acquisition Officer on the ground that after passing the final Award, they have not raised any objection. We have already overruled the similar contention taken by the Land Acquisition Officer in the judgment cited supra. The relevant paragraphs are extracted below:-

"9. Section 18(a) and (b) of the Land Acquisition Act should be construed as a provision fixing the outer time limit for making a request for reference. The market value determined by the Land Acquisition Officer and the total amount payable to the land owner would be available only in the award in case it is a normal acquisition without invoking urgency clause and as such, limitation would start from the date of award, in case the land owner was present or represented before the Collector when the award was made, and in other cases within six weeks from the date of receipt of notice under Section 12(2) or within six months from the date of award, whichever period would expire first. The notice issued under Section 17(3A) calling upon the landowners to receive 80% of the compensation is in the nature of a notice issued under Section 12(2), the difference being that one was before the award to receive 80% of the compensation and the other is after the award. However, the fact remains that in both the cases, the total compensation has already been determined by the Land Acquisition Officer. The payment of 20% is deferred till the award is made.

10. However, that would not be the case in case protest petition was not given either at the time of receiving 80% of the compensation or within the statutory period after passing the award. We make it clear that the order

passed by the learned Single Judge would not enure to the benefits of those land owners who have not submitted application for reference while receiving 80% of the compensation or within the statutory period under Section 18 of the Land Acquisition Act. There is no liability to refer such cases to the Reference Court. The Land Acquisition Officer must verify each case independently to ascertain as to whether application for reference was made either at the time of receiving 80% of the compensation or within the outer time limit prescribed under Section 18 of the Land Acquisition Act.

11. We make the position clear that in matters relating to the acquisition by invoking the urgency clause under Section 17 of the Land Acquisition Act, the protest letter submitted while accepting 80% of the total compensation determined by the Land Acquisition Officer would meet the requirement of Section 18 of the Land Acquisition Act."

3. Accordingly, by following the judgment dated 2 November 2017 in W.A.No.1342 of 2017, this intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

+1cc to Mr.S.KADARKARAI, Advocate SR.No.49672
+1cc to Government Pleader SR.No.49897

W.A.No.423 of 2018

SS (CO)
SMI/13.08.2018

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