

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.24234 of 2014
and WMP.No.7503 of 2016

1.V.Muralidharan

2.V.Sambasivan

***3.V.Gopalakrishnan**

... Petitioners

-Vs-

The Special Tahsildar (L.A)

Unit II

Tamil Nadu Housing Board

Nandanam

Chennai - 600 035.

... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent herein to refer the matter under Section 18 of the Land Acquisition Act (Act 1 of 1894) to the appropriate Civil Court for enhancement of compensation on the basis of the petition dated 18.2.1986 in respect of petitioner's land in S.No.48, measuring Ac 1.40, S.No.55/1 measuring Ac 1.00, S.No.56 measuring Ac 1.22, *** S.No. 57 measuring AC 0.98, S.No. 58 measuring AC.2.57 and S.No. 59 Measuring AC 1.06. in all measuring 8.23 Acres** in Nolambur Village, Saidapet Taluk, the then Chengalpet District now in Tiruvallur District by fixing a time limit.

For Petitioners : Mr.M.S.Subramanian

For Respondent : Mr.A.Zakir Hussain
Government Advocate

ORDER

1. The short prayer the petitioners seek is that they, Vide their communication dated 18.2.1986 to the District Collector, Chennai, sought for a reference under Section 18 of the Land Acquisition Act, 1894, seeking enhancement of compensation. However, no reference was immediately made since there was some dispute in apportioning the compensation based on title, and this itself was resolved in LAOP.No.268 of 1987 on the file of Sub Court, Poonamallee only on 24.12.1992. It is submitted that the request of the petitioner dated 18.2.1986 seeking reference under Section 18 of the Land Acquisition Act, 1894 was received by the authority concerned in RC.No.1382 and it was made even before the LAOP 268 of 1987 was disposed of. However, no reference was made, and this

to the respondents on several occasions. Hence, the petitioners have approached this Court in this writ petition.

3. In the counter affidavit, it is essentially submitted that the property was situated in Ambattur Taluk, which was previously part of Chengalpattu District and now in Thiruvallur District, that during this process of territorial reorganization of the said Taluk, the records were misplaced, and that they could not be traced. It is also stated in the counter that most of the areas were hard hit in the 2015 floods and several files were lost and possibly the files pertaining to this acquisition might have also been lost.

4. Heard Mr.M.S.Subramanian, the learned counsel appearing for the petitioner and Mr.A.Zakir Hussain, learned Government Advocate. Mr.K.Gajendran, Special Tahsildar (Land Acquisition), *** Tamil Nadu Housing Board, Nandanam, Chennai**, was present to assist the Court, and he also stated that all the efforts spent in tracing the relevant papers and records were in vain and expressed his apprehension that the papers/files might have been lost since the property itself was taken possession on 1986.

5. It is on the one hand the petitioners assert that his request for reference under Section 18 of the Act was received in R.C.No.1382 and on the other hand, the respondent is not in a position to deny it for want of files. However, the right of a citizen to seek reference under Section 18 of the Act should not be lost. This case in a sense has a peculiar feature in that there is a possibility of official files pertaining acquisition might have been lost when the several parts of Chennai was marooned and submerged by the floods in December, 2015. A force majeure or vis major event, or a combination both it may be, still the benefit of doubt should be in favour of the petitioner.

6. This Court, therefore directs the petitioners to file a fresh petition before the appropriate authority, within two weeks from the date of receipt of a copy of this, and upon receipt of the same, such authority may treat the representation as if it is made on 18.02.1986 and shall make a reference to the concerned Civil Court within four weeks thereafter.

7. With the above direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar
Dated: 22/03/2018

*Corrected as per order
dated 14/04/2018 made herein
Sd/- Assistant Registrar
Dated: 11/04/2018

/True copy/

To:

The Special Tahsildar
(L.A)Unit II,

Tamil Nadu Housing Board
Nandanam,
Chennai - 600 035.

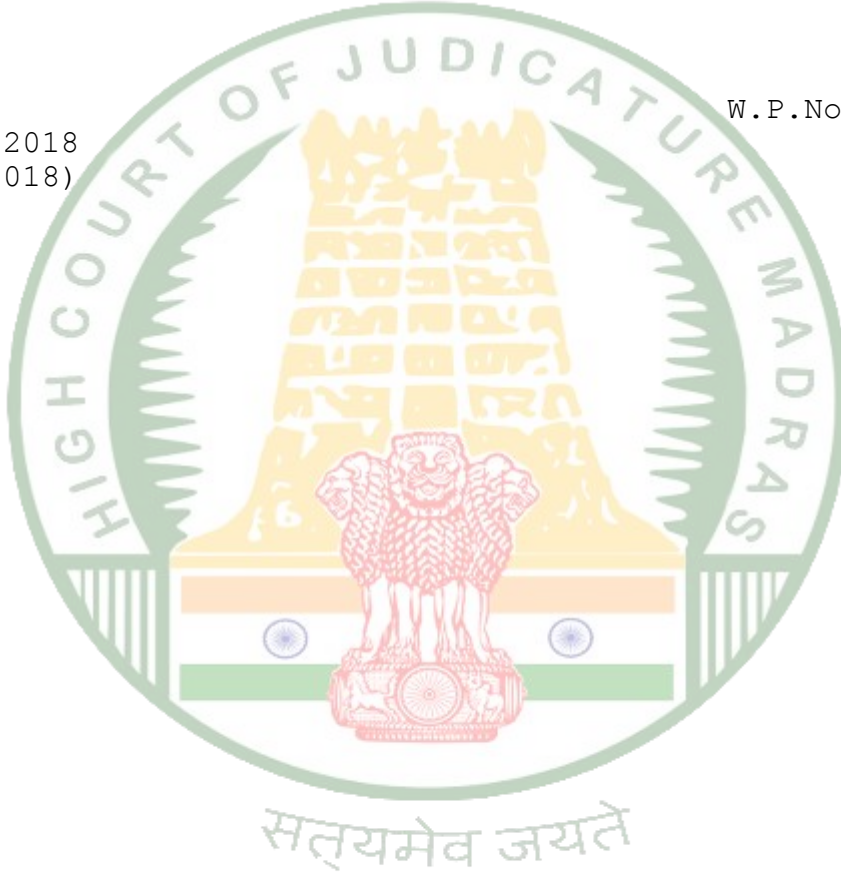
Corrected Order to be
substituted for the order already
despatched on 04/04/2018

+2 cc to Mr.M.S.Subramanian Advocate SR.No.**26202**

+1cc to the Government Pleader SR.No.10620

SDR 22.03.2018
GN(11/04/2018)

W.P.No.24234 of 2014



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