

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2018

CORAM:

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

W.A.No.694 of 2018  
and CMP No.6615 of 2018

M.Saravanan

... Appellant

versus

1. The Secretary to Government,  
(Housing & Urban Development Department),  
Fort St. George, Chennai 600 009.
2. The District Collector,  
Tiruvallur District,  
Tiruvallur.
3. The Revenue Divisional Officer (R.D.O.)  
Ambattur Taluk, Ambattur,  
Chennai 600 053.
4. The Land Acquisition Officer,  
Special Tahsildar (L.A.) (N),  
Chennai.
5. The Sub-Treasury,  
(Government of Tamil Nadu),  
Nandanam, Chennai 600 035.

... Respondents

Appeal filed under clause is of Letter Patent against the order passed by this Court dated 04.01.2018 passed in W.P.No. 19923 of 2017.

W.P.No. 19923 of 2017:-

Praying to issue a Writ of Mandamus, directing the 1st respondent to fixation of compensation as per the Market Value of the land with 9% interest per annum from the date of acquisition to till the date and deciding the petitioner claim based on the representation dated 12.04.2017 in connection with survey No.141/3 Karampakkam Village Porur Chennai

For Appellant : Mr.K.Thiruvalluvan  
For Respondents : Mr.V.Anandhamoorthy  
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The appellant challenges the judgment of the learned Single Judge dated 04.01.2018 made in Writ Petition No.19923 of 2017, in and by which, the Writ Petition filed by him seeking a Writ of Mandamus directing the 1<sup>st</sup> respondent to fix compensation as per the Market Value of the land with 9% interest per annum from the date of acquisition to till date and deciding the petitioner's claim based on the representation dated 12.04.2017 in connection with the land measuring an extent of 2540 sq.ft. in Survey No.141/3 of Karampakkam Village, Porur Taluk, Chennai.

2. The Brief facts that led to the filing of the Writ Petition are as follows:

An extent of about 8 acres and 18 cents of land was acquired by the Government of Tamil Nadu for formation of National Highways during the year 1991. An award came to be passed under the award No. 6 of 1994 under Section 11 of the Land Acquisition Act on 10.06.1994. Out of the said 8 acres and 18 cents an extent of about 46 cents was situate in Survey No.141/3 of Karampakkam Village, Porur, Chennai. As per the award the said land as shown to be owned by one Murugesha Naicker. The appellant would claim that he had purchased an extent of 2540 sq.ft. of land in Survey No.141/3 under a Sale Deed dated 24.09.1989 from the legal heirs of the said Murugesha Naicker. It is the claim of the appellant that he had no notice of the acquisition proceedings and since the compensation was not paid to him, he made several representations to the Authorities concerned, for payment of compensation. It is also claimed by him that he had moved this Court in WP No.4064 of 2011 seeking payment of compensation. The said Writ Petition was allowed by this Court on 12.12.2014, directing the respondents to consider the claim of the appellant. Pursuant to the same, after prolonged correspondence, the respondents had paid the compensation payable for the extent of 2540 sq.ft. in Survey No.141/3 to the appellant on 16.02.2017.

3. After having received the compensation as per the award dated 10.06.1994 the appellant has made a further representation seeking enhanced compensation on 13.04.2017. Complaining that

the said representation seeking enhanced compensation has not been disposed of by the Authorities, the appellant had come forward with the prayer for issuance of Writ of Mandamus.

4. The learned Single Judge dismissed the Writ Petition holding that the remedy of the appellant is under the provisions of Section 18 of the Land Acquisition Act, 1984 and having failed to invoke the same he cannot seek issuance of Writ of Mandamus that too after the lapse of 23 years, hence the above Appeal.

5. We have heard Mr. Thiruvalluvan, learned counsel appearing for the appellant and Mr.V.Anandamoorthy, learned Additional Government Pleader appearing for the respondents.

6. The counsel for the appellant would contend that though he had purchased the property subject matter of acquisition, as early as on 24.09.1989, no notice of acquisition was served on him. Therefore, he cannot be faulted for the delay. Unfortunately for the appellant the sale deed under which he had purchased the property on 24.11.1987 shows the Survey No.143/3 instead of 141/3 in the schedule. Though the body of the sale deed reflects Survey No.141/3, this mistake in Survey number was raised by the Authorities, when the claim of the appellant for payment of compensation was considered and the appellant had produced the document styled as "உறுதி மொழி ஆவணம்" executed by him stating that the land purchased by him under the sale deed dated 24.09.1987 lies in Survey No.141/3 and the survey number stated in the Schedule i.e.,143/3 is a mistake. It is based on this affidavit, the Authority has disbursed the compensation to the appellant.

7. Though, we are our own doubts that the validity of such an affidavit which rectifies the Registered Sale Deed, we refrain from expressing any opinion on it, since the Authority had acted upon it and paid the compensation to the appellant. However, since as on the date of acquisition, the sale deed that stood in the name of the appellant only related to Survey No.143/3 and not Survey No.141/3, the Authorities were not obliged to issue any notice to the appellant regarding the acquisition. The acquisition proceedings were completed by passing an award as early as on 10.06.1994. The appellant has been agitating an issue of compensation right from the year 2001, by making various representations but he had not chosen to seek a reference under Section 18 of the Land Acquisition Act. For a first time after the lapse of nearly 23 years, the appellant had chosen to seek enhanced compensation by his representation dated 13.12.2017. We are therefore in agreement

with the learned Single Judge that the appellant is guilty of latches and negligence.

8. In fact the relief sought for by the appellant is time barred in terms of Section 18 of the Land Acquisition Act, 1984.

We therefore see no reason to interfere with the Judgment of the learned Single Judge, hence the Writ Appeal is dismissed. However, considering the facts and circumstances of the case, there will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

jv  
To

1. The Secretary to Government,  
(Housing & Urban Development Department),  
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Nandanam, Chennai 600 035.

+1cc to Mr.K.Thiruvalluvan, Advocate, S.R.No.41245  
+1cc to the Government Pleader, S.R.No.41399

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NRI (CO)  
CS/19/07/18