

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.01.2018

CORAM

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.25648 of 2017 & WMP.No.27038 of 2017

D.Prema

... Petitioner

Versus

1.The Additional chief Secretary,
Land Administrative Officer,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The District Collector,
Vellore District,
Vellore.

3.The District Revenue Officer, (DRO),
Vellore District, Vellore.

4.The Special Tahsildar, (Land Acquisition),
Thirupattur Taluk, Vellore District.

... Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 3rd respondent to compensation as per the guideline value in S.No.26/3B1 in Bajanai Kovil Street, Jolarpettai for a sum of Rs.4530/- conveniently shown as 26/25 which is not existence to my property.

For Petitioner : Mr.R.Shanmugam, SC

For Respondents : Mr.A.Zakir Hussain, GA

ORDER

The petitioner has purchased a piece of property having an extent of 8.5 cents in S.No.26/3B1 on 14.07.2000 from Mr.Manickam. This property was part of a larger parcel of property that Manickam owned in several Survey numbers. In the property purchased, the petitioner had constructed residential building ion after obtaining necessary permission for the same

even in 2002. Presently, the property falls within S.No.26/25. The petitioner avers in her affidavit that out of the total extent that she has purchased, 325 sq.ft was sought to be acquired under the provisions of Tamil Nadu Land Acquisition Act, 2001, that an interim award was passed on 31.05.2017, wherein the petitioner's property was undervalued at Rs.3,500/- whereas the adjacent owners were granted Rs.4,530/-. Aggrieved by what she considers as irrational discrimination, the petitioner has approached this Court seeking a direction to the authorities to show parity in the matter of payment of compensation and fixation of value of the land. Secondly, it is alleged that the petitioner has not mutated the revenue records in her name.

2. Mr.A.Zakir Hussain, learned Government Advocate has entered appearance for all the respondents. Fourth respondent has filed his counter affidavit. In the counter affidavit, the respondents has stated that the lands that were acquired were classified into three categories for the purpose of fixing the market price that petitioner's property in S.F.No:26/3B1 is classified as Residential Special Type II and the guideline for the same has been determined at Rs.3,500/- whereas the the guide line value for the property in Residential Class I Type III is determined at Rs.4,530/- The learned Government Advocate also made a submission on instructions from Mrs.Durga Bai, Assistant Engineer (H), Project Wing, Thirupathur, Sub Division, who is personally present in the Court that a final award can be passed even without the need for the petitioner to effect mutation. Hence the interim award was passed in the name of petitioner's vendor Manickam.

3. Heard both sides. It is submitted that the property were houses were constructed are differentially valued from a mere housing plot. Insofar as the petitioner's property is concerned admittedly there is a residential building. However, the final award is yet to be passed. It is evident that even as per Sec.105-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the land acquisition authority cannot ignore the principles for computing the compensation and other benefits under the said Act even for acquisition under the Tamilnadu Highways Act, 2001.

4. This Court, therefore, directs the 3rd respondent to pass the final award within a period of four months from the date of receipt of a copy of this order in terms of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and afford an adequate and effective opportunity to the petitioner to participate in the same wherein the petitioner would have the right to raise all necessary objections that she has now

raised,. The petitioner seeks three months time to hand over vacant possession of the property. With the above direction the writ petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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TO,

- 1.The Additional chief Secretary,
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Chennai-600 005.
- 2.The District Collector,
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Vellore.
- 3.The District Revenue Officer, (DRO),
Vellore District, Vellore.
- 4.The Special Tahsildar, (Land Acquisition),
Thirupattur Taluk, Vellore District.

+1cc to Mr.K.Thiruvalluvan, Advocate, S.R.No.7305
+1cc to the Government Pleader, S.R.No.6971

W.P.No.25648 of 2017

VGII(CO)
RRK(06/03/2018)

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