

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.26213 of 2017

M.Kaviarasu

... Petitioner

-Vs-

1.The District Collector
Kancheepuram District
Kancheepuram - 631 501.

2.The Special District Revenue Officer (LA)
SIPCOT
Sriperumbudur and Oragadam Extension
Scheme-2
Sriperumbudur.

3.The Special Tahsildhar (LA)
SIPCOT Unit-3
Sriperumbudur Extension Scheme-2
Sriperumbudur
Kancheepuram District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Na.Ka.No.40/2009/A Unit-3(Pa.Aa-4) dated 11.09.2017 on the file of the third respondent herein and quash the same and consequently direct the first respondent herein to send the representation of the petitioner dated 14.08.2017 to the Reference Court for determination of enhancement of compensation to the petitioner.

For Petitioner : Mr.M.Balasubramanian

For Respondents: Mr.A.Zakir Hussain
Government Advocate

ORDER

1.1 The petitioner is a co-sharer of 24.51 acres in Survey Nos. 34/1, 34/2, 34/5 to 34/12, 35/1 to 35/6 and 47/5 of Vallam 'A' Village, Sriperumbudur Taluk, Kancheepuram District along with three other siblings. This property was acquired under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (T.N.Act 10 of 1999) (hereinafter "Industrial. An award was passed in Award No.6 of 2016 dated 30.06.2016. Dissatisfied with the quantum of

compensation awarded, the petitioner applied to the authority under Section 8 of the Land Acquisition Act, 1894 to make a reference to the concerned Civil Court to adjudicate on the enhancement of compensation.

1.2. On 14.08.2017, the petitioner sought a reference, which was replied to by the Special Tahsildar (LA), SIPCOT, Unit-3, Sriperumbudur, the third respondent here, Vide his proceedings dated 11.09.2017 that the petitioner has agreed to receive the compensation already determined, and hence his prayer for making a reference was rejected. This is now in challenge.

2. The counter affidavit in this case was filed by the third respondent and it is pointedly alleged therein that the award passed was one under Section 7(2) of the the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (T.N.Act 10 of 1999), and not the one under Section 7(3) of the said Act thereof.

3. Mr.M.Balasubramanian, learned counsel appearing for the petitioner brought to the notice of the Court that along with the petitioner, his brother and two sisters have received the compensation, that all of them have protested to the value of the compensation given to them and that, in their request for making a reference seeking enhancement, the same Special Tahsildar who now alleges that the award was a consensual award, has stated in his communication dated 26.07.2016 that he is awaiting orders from the Government in this regard.

4. Mr.A.Zakir Hussain, the learned Government Advocate appearing for the State has presented the original files pertaining to the acquisition. In this, there is a printed form of statement, in which the blanks are filled up and it is written in the printed form in Tamil that the signatory thereof would agree to the amount so filled up. The petitioner has signed this on 21.01.2017, but there is no separate endorsement by the petitioner in the said statement that he would agree to the amount filled up in the blanks in his hand. This was followed by a printed form of agreement in English and this was signed on 24.01.2017. This according to the Land Acquisition authority is the agreement made under Section 7(2) of the enactment, but it must be stated that it does not, on its face, refer to 21.01.2017. On the same day, the petitioner's share of amount were also seen disbursed under T.N.C.T. Form 64. On a perusal of Form-64, Acquittance and also the relevant disbursement Register, the petitioner has endorsed that he has received the amount under protest. To repeat, this amount was received on the same day that the alleged agreement under Section 7(2) bears.

5. Apparently there is no consensus at idem to support the respondents' theory that the petitioner has consented to the amount offered by the third respondent to bring the case under Section 7(2) of the Industrial Purposes Act. However, if there is no agreement within the meaning of Section 7(2) of the Act, necessarily the Land Acquisition Authority shall initiate proceedings for fixation of compensation under Section 7(3) of the Industrial Purposes Act.

6. This Court, therefore allows the present petition, quashes the impugned award dated 11.09.2017, and directs the third respondent to initiate steps to hold an enquiry and determine the compensation payable in terms of Section 7(3) of Industrial Purposes Act, for which purpose, notices are directed to be issued to the petitioner at the address given in the writ petition, and it is further directed that the whole exercise of passing the award in terms of Sec.7(3) shall conclude within four months from today. It is also made clear that whatever amount the petitioner has now received is liable to be adjusted against such amount as may be determined by the authority while exercising its power under Section 7(3) of the Industrial Purposes Act. Accordingly the petition is disposed of. No costs.

-Sd/-

Assistant Registrar

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Sub Assistant Registrar

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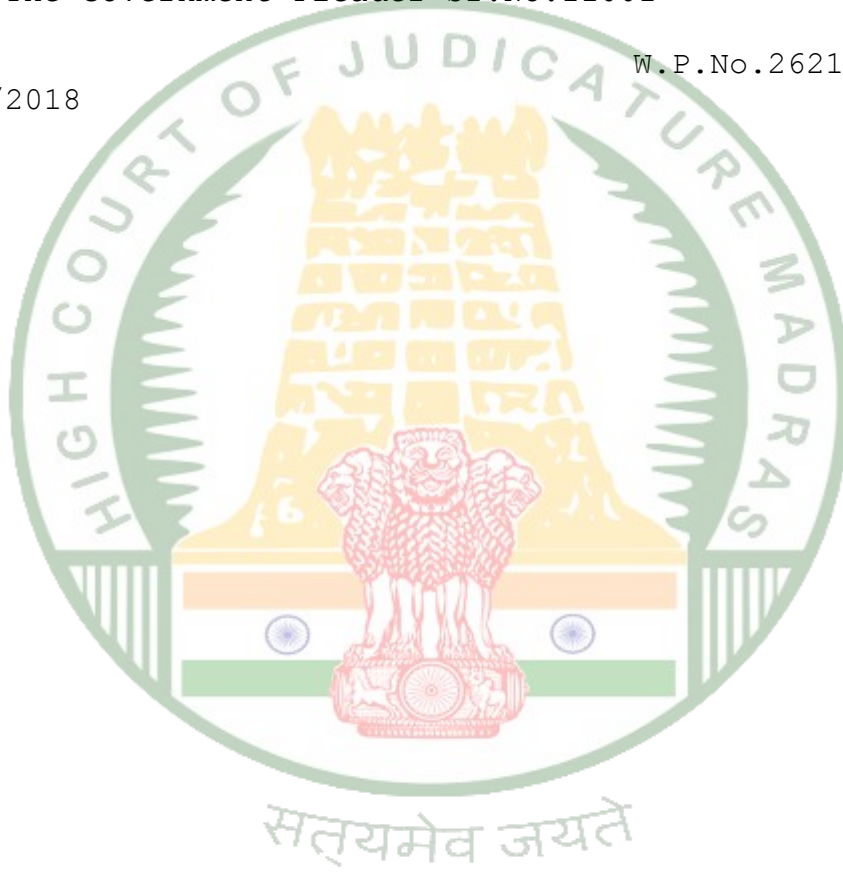
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Kancheepuram District.

- 1 cc to Mr.Bala Subramanian, Advocate Sr.No.10741
- 1 cc to The Government Pleader Sr.No.11001

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RRI 22/03/2018



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