

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2018

CORAM : THE HON'BLE Mr.JUSTICE N.SESHASAYEE

W.P.No.29797 of 2015

P.Haridoss

... Petitioner

Vs.

1.The Collector
Kanchipuram District
Kanchipuram.

2.The Special Tahsildar (L) Unit-VI
SIPCOT,
Sriperumbudur Expansion Scheme-II
Sriperumbudur
Kanchipuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the first respondent to pay compensation to the petitioner based on the New Act "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, after deducting already paid amount.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.M.Karthikeyan
Additional Government Pleader

O R D E R

1.1. The grievance of the petitioner in this case is that the property of the petitioner was sought to be acquired along with other properties of adjacent owners under the provisions of the Tamil Nadu Acquisition of Land for

Industrial Purposes Act, 1997 (hereinafter referred to "Act"). The petitioner was invited for an enquiry to discuss on the compensation payable. This may presumably under Section 7(2) of the Act and a notice dated 14.08.2012 was issued for that purpose. On 31.08.2012, the petitioner had made a representation/objection to the first respondent at for locality where his property is situate, guideline value is fixed at Rs.150/- per sq.ft., whereas for property located in adjacent areas, guideline value was fixed at Rs.500/- sq.ft., and requested that guideline value for his property too be fixed at the same rate.

1.2. It appears that the offer price of the Government fixed to the petitioner was Rs.41/- per sq.ft. whereas the petitioner sought Rs.150/- per sq.ft. In the meantime, for some of the neighbouring owners, for instance in Survey No.430/4B of Sriperumbudur Village, the Government has paid compensation at Rs.150/- per sq.ft. Hence on 6.08.2013, the petitioner again approached the Land Acquisition Authority with a representation to extend parity in the matter of paying him the compensation amount. As it did not evoke any reaction from the authorities concerned, the petitioner has appeared this Court in W.P.No.4393 of 2014. Vide its order dated 27.02.2014, this Court directed the petitioner to appear before the Land Acquisition Authority with all material particulars. Again on 10.03.2014, the petitioner made another

representation to pay him the compensation at the rate of Rs.150/- per sq.ft. On 24.06.2014, the said request of the petitioner was rejected by the Collector. In his proceedings, the Collector has essentially stated that in the revenue records, the land belonging to the petitioner was classified as "Panchami Land" that it has been granted to them in 1979, and the said property was lying fallow and the compensation was determined at Rs.18,00,000/- per acre. The petitioner gain moved this Court challenging this proceedings of the Collector in W.P.No.20025 of 2014. On 25.11.2014, this was disposed of by this Court, wherein this Court has directed the petitioner to receive the compensation as indicated by the Collector in his proceedings dated 24.06.2014 and granted him further liberty to seek additional compensation by a separate proceedings. It is how the petitioner has come before this Court now seeking a direction to the Land Acquisition Authority to pay compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. The counter in this case is filed. Mr.M.Karthikeyan, learned Additional Government Pleader entered appearance for the respondents. In the counter and typed set of papers that accompanied this petition, the respondents essentially relied on an agreement said to have been executed by the petitioner, wherein they have agreed to a compensation calculated at the rate of Rs.18,00,000/- per acre. The said agreement is dated 10.10.2013. The learned Additional Government Pleader also argued that since the disposal of W.P.No.20025 of 2014, the petitioner was invited for an enquiry on 12.2.2015 by the Special Tahsildar Vide communication dated 05.02.2015. The petitioner also appeared on 12.02.2015 and made a written communication indicating that the petitioner was willing to accept the compensation as determined by the Government.

Thereafter, an agreement was entered into on 16.07.2015 under Section 7(2) of the Act wherein the petitioner had accepted and agreed to receive payment in terms of the same. The learned Additional Government Pleader would then contend that while executing the consent letter dated 12.02.2015, and by executing an agreement dated 16.07.2015, the petitioner had forfeited all the right to seek additional compensation, even if there was any available to him based on the order of this Court in W.P.No.20025 of 2014. However, the petitioner continued to prefer a representation dated 31.08.2015 to the Collector, Kancheepuram, the first respondent, seeking enhanced compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. After hearing both sides, it all appears to boil down to whether the Special Tahsildar concerned has misrepresented to the petitioner about the nature of agreement that they have entered into on 16.07.2015, or kept the petitioner in dark as to the legal consequences of signing the said agreement or plainly played fraud on the petitioner.

5. This Court does not believe that the Special Tahsildar would have played fraud on the petitioner since he does not derive any benefit to himself by making the petitioner sign the agreement. It can well be possible that the Tahsildar may not have understood the legal implications of what he has done or understood the true import of the order of this Court in W.P.No.20025 of 2014. What becomes relevant in this context is that the petitioner has been consistently expressing his unwillingness to receive the compensation as offered by the State and has been seeking enhanced compensation. This, he has done before filing both the two writ petitions that he had filed, and also after the disposal of the said agreement, more particularly after executing the agreement dated 16.07.2015, and there is nothing to indicate from the conduct of the petitioner that there is a conscious effort on his part to concede to the offer price of the Government or relinquishing his own claim for higher compensation or giving up any of the right that accrued to him based on the orders of this Court in W.P.No.20025 of 2015. Therefore, it appears that some mistake appeared to have been entertained on both side. But then, what is even more significant is whether the grievance of the petitioner is remediable.

6. In the context to the above, this Court directs the respondents to treat the said agreement as an award determined by the authority concerned, as if it was fixed under Section 7 (3) of the Act, in which case, the petitioner would be entitled to seek a reference to Civil Court under Section 8 of the Tamil

Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999). Accordingly, this Court further directs the first respondent to treat the representation of the petitioner dated 31.08.2015 as the one seeking Reference to the Civil Court under Section 8 of the aforesaid Act and refer the matter to the concerned Civil Court ignoring the period of limitation provided therefor in the statute. This petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ds

To:

- 1.The Collector
Kanchipuram District
Kanchipuram.
- 2.The Special Tahsildar (L) Unit-VI
SIPCOT,
Sriperumbudur Expansion Scheme-II
Sriperumbudur
Kanchipuram District.

+1cc to Mr.S.T.VARADARAJALU Advocate, S.R.No. 13773
+1cc to Mr.SUDHARSHANA SUNDAR Advocate, S.R.No. 13789
+1cc to the Government Pleader, S.R.No. 14073

W.P.No.29797 of 2015

TR(23/03/2018)

सत्यमेव जयते

WEB COPY