

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.29599 of 2017

M.Rajarithnam

... Petitioner

Vs

The District Collector,
Land Acquisition Officer,
Collectorate,
Kancheepuram District.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to quash the impugned order dated 29.07.2017 passed in Na.Ka.No.16832/2008/vg;1 and thereby direct the respondent to send the petitioner's appeal to the Competent Court to adjudicate the correct compensation.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.Akhil Akbar Ali
Government Advocate

O R D E R

The petitioner has approached this Court for issuance of writ of Certiorarified Mandamus to direct the Land Acquisition Authority to quash the proceedings of the respondent dated 29.07.2017 passed in Na.Ka.No.16832/2008/vg;1 and to refer the matter to the concerned Civil Court under Section 20(1) of the Tamil Nadu Highways Act, 2001.

2. The allegation of the petitioner is that he is the owner of the property comprised in S.No.491/20 part to an extent of 00485 sq.meters, was acquired under the provisions of the Tamil Nadu Highways Act, 2001, that an award was passed on 15.09.2011 without notice of the same given to the petitioner promptly, and based on the same, petitioner was paid Rs.23,70,436/-. The petitioner moved the authority under Section 20(1) of the Tamil Nadu Highways Act, 2001 for referring to the Civil Court with

his representation dated 23-12-2011. This was not done by the authorities. Since the authorities did not act promptly on his request for reference, the petitioner followed this with another representation dated 16.11.2016. Since this was also did not evoke any reaction from the authority, the petitioner moved this Court in W.P.No.6145 of 2017. On 17.04.2017, this Court allowed the said writ petition of the petitioner and directed the authority to consider his representation. On 29.07.2017, the respondent has rejected the request of the petitioner for reference on the ground that the reference was made well beyond 60 days. However, nowhere in the impugned order, it is stated that the petitioner was informed of passing of the award immediately after passing of the award.

3. Mr.Akhil Akbar Ali, learned Government Advocate appearing for the respondents. No counter is filed.

4. The terminus quo for calculating the limitation period of 60 days provided for seeking reference to the Civil Court under Section 20(1) of the Tamil Nadu Highways Act has to be reckoned only from the date of communication of the passing of the award, even though the statute does not spell it so in clear terms. This is insisted in Bhagwan Das and Ors Vs. State of U.P. & Others [AIR 2010 SC 1532]. If it were to be construed otherwise then it will give licence to every erring authority who fails in their duty to inform the owner of the land about passing of the award to refrain from referring the matter on the ground of limitation. This cannot be countenanced. The only point involved in this case is issuing notice of passing of the award to the petitioner promptly and it is not addressed in the impugned order.

5. This Court therefore, allows the petition and directs the respondents to refer the matter to the Civil Court concerned under Section 20(1) of the Tamil Nadu Highways Act, 2001 within a period of one month from the date of receipt of a copy of this order. Once it is so done, the Reference Court will treat it as if it is done within time and shall grant such statutory benefits that the petitioner might be entitled to if the Reference had been made in time. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

ssn

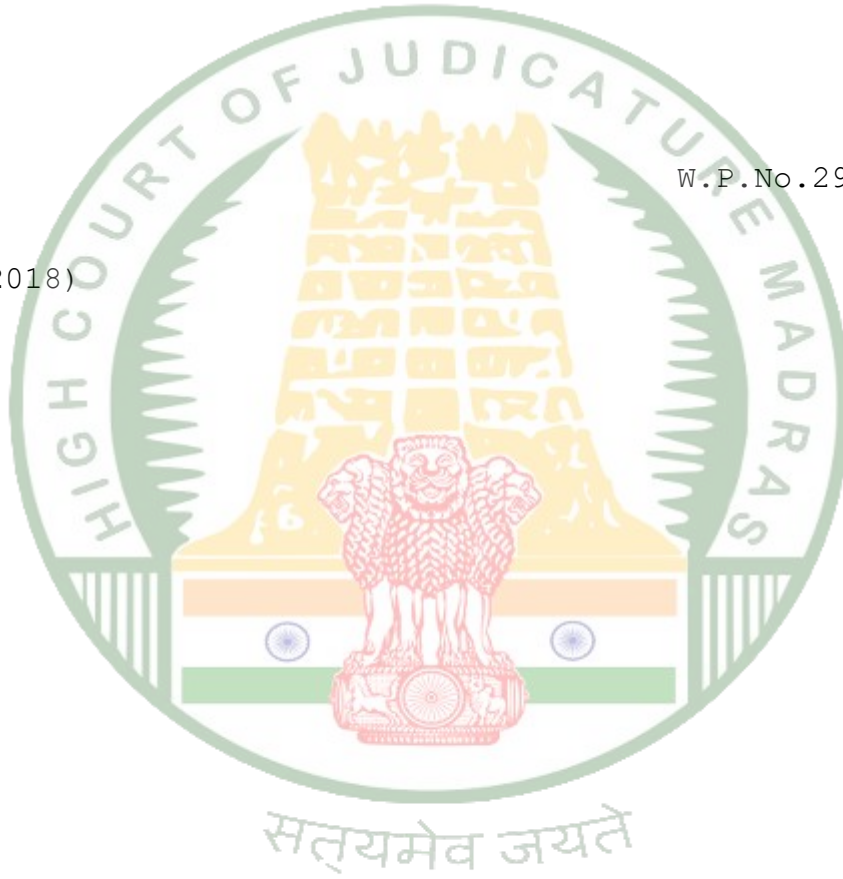
To

The District Collector,
Land Acquisition Officer,
Collectorate,
Kancheepuram District.

+2 Ccs to Mr.A.R. Nixon, Advocate sr 8353.

W.P.No.29599 of 2017

SP(09/03/2018)



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