

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.10.2018

Coram

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No. 17007 of 2018

T.Anand Kumar

.. Petitioner

Vs.

The District Collector,
Kanchipuram District
Kanchipuram

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the Respondent herein dated Nil/03/2018 in R.C.283/2014 and quash the same and consequently direct the respondent herein to pay compensation for the lands acquired by the respondent at the rate of Rs.10,235/- per cent in par with other land owners whose lands are similarly placed and pass further orders.

For Petitioner : Mr.G.Karthikeyan

For Respondent : Mr.D.Raja
Additional Government Pleader

O R D E R

The Writ Petition has been filed challenging the order passed by the Respondent dated Nil/03/2018, wherein the petitioner's request to pay the enhanced compensation under Section 28 A, of Land Acquisition Act, 1894 [hereinafter referred to as 'Act'] has been rejected.

2. According to the learned counsel for the petitioner, the lands were acquired for formation of SIPCOT [Sriperumbudur Scheme] and thereafter, an award was also passed. The neighbouring land owners who were covered by same notification have sought for reference under Section 18 of the Act. Pursuant to the same, the award was also referred in LAOP Nos.6 of 2007 etc., on the file of Sub Court, Kanchipuram. Subsequently, the reference court has also passed an order dated 08.01.2008 by

fixing the compensation at Rs.5,500/-. Not being satisfied by the award passed by the reference court, the Tahsildar, viz., the Special Tahsildar [L.A], Kancheepurm District had filed an Appeal Suit before this Court in A.S.Nos.598 to 627 of 2012 and this Court, enhanced the compensation to Rs.10,325/- per cent by a Judgment dated 25.06.2012.

3. Further, the learned counsel for the petitioner submitted that copy of the Judgment dated 25.06.2012 was delivered to the petitioner only on 07.08.2012 and thereafter, the petitioner filed an application before the Respondent on 20.10.2012 under Section 28 A of the Act seeking for similar enhancement. Since the application was not considered, the petitioner filed a Writ Petition No.19401 of 2014 to consider the petitioner's application and pass orders. This Court by an order dated 16.06.2017 directed the 1st respondent therein, viz., the Special Tahsildar, [Land Acquisition] SIPCOT, Kancheepuram District to refer the petitioner's representation to District Collector, Kancheepuram and the District Collector, Kancheepuram was directed to pass orders on the application. Thereafter, the impugned order has been passed by the respondent / District collector, on the ground that the the order of the reference Court was passed as early as on 08.01.2008 and the petitioner has submitted a representation only on 20.10.2012, which is beyond a period of three months, hence, the petition is barred by limitation. Challenging the above order, the present Writ Petition is filed.

4. Heard Mr.G.Karthikeyan, learned counsel for the petitioner and Mr.D.Raja, learned Additional Government Pleader for the respondent and perused the materials placed on record.

5. Admittedly, the impugned order has been passed on the ground that the reference court passed an order fixing the compensation on 08.01.2008. Thereafter, the representation has been submitted by the petitioner on 20.10.2012, i.e., after a lapse of four years, hence it is barred by limitation. But, the respondent failed to consider the fact that, the earlier order passed by the reference Court has been challenged before this Court in A.S.Nos.598 to 627 of 2012 and this Court by an order dated 25.06.2012, enhanced the compensation and the copy of the order was made ready and delivered only on 07.08.2012, and within a period of three months, the petitioner has made a representation. In support of this contention, the learned counsel for the petitioner has produced a copy of the statement obtained from National Information Centre, and it shows that the Judgment in the first appeal was delivered on 25.06.2012, and the copy of the Judgment was delivered on 07.08.2012. A perusal of the Judgment dated 25.06.2012 in A.S.Nos.598 to 627 of 2012, also the statement obtained from the National Information

Centre, clearly shows that the copy of the Judgment was delivered to the petitioner on 07.08.2012 and thereafter, within a period of three months, the petitioner submitted his application on 20.10.2012. However, without considering the Judgment passed by this Court, the respondent has passed an impugned order based on the award passed by the reference court.

6. In such circumstances, the impugned order has been passed in total non-application of mind and the impugned order is liable to be set aside, accordingly, it is set aside, and the matter is remanded to the respondent, the respondent is directed to consider the petitioner's application dated 20.10.2012, on merits and pass suitable orders within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity to the petitioner.

With the aforesaid observations, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssd

To

The District Collector,
Kanchipuram District
Kanchipuram

+1cc to Mr.G.Karthikeyan, Advocate, S.R.No.73283

W.P.No. 17007 of 2018

SV(CO)
GSP(28/11/2018)

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