

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.6416 of 2015

A.Munisamy

...Petitioner

Versus

1. Union of India,
Represented by the Secretary to Government,
Department of Revenue & Disaster Management,
Government of Union Territory of Puducherry,
Puducherry.

2. The Deputy Collector (Revenue) North,
Cum Land Acquisition Officer,
Puducherry.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to make a reference under Section 18 of the Land Acquisition Act, 1894 in respect of the quantum of compensation in respect of the petitioner's land in R.S.No.143/5 of Poornankuppam Village, acquired by Award No.3/2010 - bearing Ref.No.627/DCR(N)/LA/U/2005 dated 05.11.2010.

For Petitioner : R. Saravanan

For Respondents : Mr. J. Kumaran,
Govt. Advocate (Puducherry)

ORDER

The petitioner has come forward with the present petition seeking a direction to the second respondent to refer the matter for reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "Act").

1.1. The brief facts of the case is that the petitioner owned a piece of land in R.S.No.143/5 correlated to Cadastre Nos.1968/1/2, 1968/1/4/3/4/2/2, 1968/1/4/2/2, measuring an extent of 0.11.00 Hectare. The said land was acquired for a specified public purposes and an award was passed under Award No.3 of 2010 dated 05.11.2010. The total compensation amount was deposited in the Civil Court under Section 30 of the Act. The said reference was taken on file in L.A.O.P.No.21 of 2013 by the Civil Court concerned and the petitioner was served with a notice of the aforesaid L.A.O.P on 02.02.2015.

1.2. In the meantime, the petitioner made a representation on 16.09.2014 before the second respondent to refer the matter to the the appropriate Civil Court under Section 18 of the Act. In other words, the said request for reference under Section 18 of the Act was made even prior to the petitioner received the notice of reference under Section 30 from the Principal District Judge, Chief Judges Court, Pudhucherry. Reference was not made and hence this petition.

2. In the counter affidavit filed by the respondent, the only contention taken was that soon after the passing of the award, petitioner was served with a notice under Section 12(2) of the Act. But the petitioner has come forward with the present request for reference only on 16.09.2014, few years after the expiry of the stipulated six months time provided under Section 18(2) of the Land Acquisition Act, 1894.

3. Heard Mr.R.Saravanan, the learned counsel for the petitioner and Mr.J.Kumaran, Government Advocate (Puducherry).

4. In the course of his submission, the learned counsel for the petitioner brought to the notice of the Court that only on 23.07.2015, the learned Principal District Judge, Chief Judges Court, Pudhucherry has disposed of the L.A.O.P.No.21 of 2013 declaring the petitioner as a sole rightful person to receive the compensation. In fact, there is no dispute as to reference for. This is also conceded in paragraph No.9 of the counter affidavit.

5. The learned counsel for the petitioner argued that the limitation for reference under Section 18 of the Act in cases where it was preceded by the reference under Section 30 of the Act, only commences from that date of passing of the order in the reference made under Section 30. So far as this case is concerned, the learned counsel argued that the petitioner has preferred his request seeking reference under Section 18 of the Act even prior to the disposal of the L.A.O.P.21 of 2013. Therefore, one can only say that the present representation of the petitioner is premature from the stand point of Reference under Section 30 of the Act.

6. In the said circumstances, this Writ Petition is allowed and the second respondent is directed to make the reference within four weeks from the date of receipt of a copy of this order. No costs.

mrr

Sd/-
Assistant Registrar(CCC)

To:

1. The Secretary to Government,
Department of Revenue & Disaster Management,
Government of Union Territory of Puducherry,
Puducherry.
2. The Deputy Collector (Revenue) North,
Cum Land Acquisition Officer,
Puducherry.

+1cc to Government Pleader Sr.No.10488

+1cc to Mr.R.Saravanan, Advocate Sr.No.10737

RJ(CO)

sm:28.5.2018

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