

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20..12..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.28366 of 2014

Smt.Mumtaj Begam

... Petitioner

-Versus-

- 1.The Government of Puducherry,
Rep. by its Secretary to Government,
Department of Revenue & Disaster Management,
Puducherry.
- 2.The Collector,
Collectorate,
Karaikal, Puducherry.
- 3.The Deputy Collector (Revenue),
Land Acquisition Officer,
Office of the Sub Collector,
Puducherry.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to determine the compensation for the land acquired under the Land Acquisition Act, 1894 for the property situate at Karaikal, Ward-F, Block-2, No.13/1/2/2, Riot Nanja land measuring at 0.79.00 Hectare under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 and disburse the same after deducting the amount already received by the petitioner towards the compensation.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.D.Ravichander, GA
(Puducherry)

ORDER

This writ petition has been filed seeking a writ in the form mandamus directing the respondents to determine the compensation for the land, which had been acquired from the petitioner, invoking the provisions of the Land Acquisition Act, 1894, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 and disburse the compensation amount after deducting the amount

which had already been paid to the petitioner towards compensation under the old Act.

2. According to the petitioner, her land was acquired by the Puducherry Government for the purpose of formation of Western By-Pass Road. As the acquisition proceedings was initiated invoking the emergency provision under Section 17(4) of Act, 1894 (in short, the Central Act 1894), enquiry under Section 5-A of the Act, 1894 was dispensed with. Subsequently, a declaration under Section 6 of the Central Act 1 of 1894 was also issued on 18.02.2011 and the possession of the land in question was also taken on **31.10.2013**. Even though she was paid 80% of the compensation amount on 23.05.2014, so far no award has been passed. The grievance of the petitioner is that despite repeated representations, her request for payment of the balance compensation has not been considered by the respondents. Hence, this writ petition.

3. The 3rd respondent filed his counter affidavit for himself and on behalf of the other respondents wherein it is contended that the the land in question was acquired under the Central Act, 1894 invoking the emergency clause and 80% of the compensation amount had already been paid to the petitioner, but, no award has been passed till date. According to the 3rd respondent, in the mean time, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [in short 'the Central Act 30 of 2013'] came into force and based on the powers conferred under the Central Act 30 of 2013, the respondent Government framed appropriate rules namely, Puducherry Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2016, which came into force w.e.f. 16.03.2017.

4. I have heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and also perused the records carefully.

5. Admittedly, the land in question was acquired under the Central Act 1 of 1894 invoking the emergency clause under Section 17(4) of the Central Act, 1894 and the petitioner was paid 80% of the compensation amount. But, so far no award has been passed. In the mean time, Central Act 30 of 2013 came into force w.e.f. 01.01.2014 and as per Section 24(1)(a) of the Central Act 30 of 2013, if no award under Section 11 of the Central Act 1 of 1894 has been made, then, all the provisions of the Central Act 30 of 2013 relating to determination of compensation shall apply and therefore, the respondents have to pass an award only under the Central Act 30 of 2013.

6. Considering the above facts and circumstances of the case, the respondents are directed to pass award under the provisions of the Central Act 30 of 2013 within a period of six weeks from the date of receipt of a copy of this order. This writ petition is disposed of accordingly. No costs.

kmk

20.12.2018

"For Being Mentioned"

The Petition having been posted on this day (05/03/2019) "For Being Mentioned" In Pursuance to the order of this court dated 20.12.2018 and made herein in the presence of the above said advocates this court made the following order:

This Writ Petition has been posted under the caption "for being mentioned" today.

2. Today, when the matter came up for hearing, the learned counsel appearing for the petitioner submitted that in the affidavit filed in support of the Writ Petition, in para 7, it has been stated that the date at which possession of land is taken over on 31.10.2013, but, whereas in the order, in para 2, it has been wrongly mentioned that the possession of the land in question was also taken on 31.01.2013. Hence, for correcting the said order, the Writ Petition is posted today.

3. I have considered the submissions and verified the order.

4. Considering the fact that in the affidavit filed in support of the Writ Petition, in para 2, it has been mentioned that the possession of the land was taken on 31.10.2013, but due to oversight, it has been typed as 31.01.2013, which is only a typographical error. In the above circumstances, the Registry is directed to correct the order as follows :-

"the possession of the land in question was taken on 31.10.2013 instead of 31.01.2013"

The Registry is directed to issue fresh copy of the order.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

kmk

To

1.The Secretary to Government, Department of Revenue & Disaster Management, Puducherry.

2.The Collector, Collectorate, Karaikal, Puducherry.

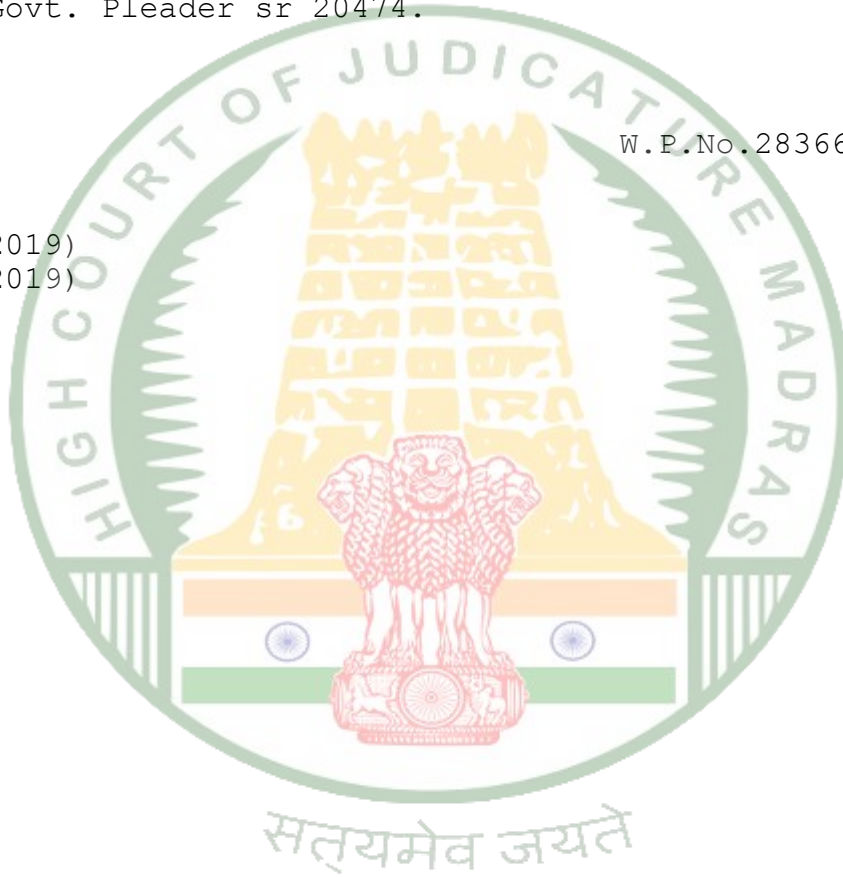
3.The Deputy Collector (Revenue), Land Acquisition Officer, Office of the Sub Collector, Puducherry.

+1 CC to Mr.M.Md. Ibrahim Ali, Advocate sr 20462.

+1 CC to Govt. Pleader sr 20474.

W.P.No.28366 of 2014

KS(CO)
GN(13/02/2019)
SP(15/03/2019)



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