

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.24973 of 2016

K. Kalaiarasi

...Petitioner

Versus

1. The Member Secretary,
CMDA, Thalamuthu Natarajan Maaligai,
Egmore, Chennai - 600 008.
2. The Land Acquisition Officer and
Special Tahsildar (L.A) Unit - 6,
O.R.R. Project Phase - II,
CMDA, Koyambedu,
Chennai - 600 092.
3. The District Collector,
Thiruvallore District,

(R3 is impleaded as per order dated 15.12.2017 in
WMP.No.35962/2017 in W.P.24973 of 2016)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to impugned order dated 20.06.2016 made in Na.Ka.No.4/2002.A1/Unit - 6 on the file of the second respondent to quash the same and consequently direct the second respondent to make reference under Section 18 of the Land Acquisition Act to the jurisdictional civil court.

For Petitioner : Mr.V.Perumal

For Respondent - 1 : Mr.P.Tamilmani

Respondents - 2 & 3 : Mr.M.Karthikeyan,
Addl. Govt. Pleader

O R D E R

The case of the petitioner is that she owned a piece of land in Survey No.11/1B2, 18/3A2 and 18/3B with a combined extent of 0.50.0 Hectares in ***Ponneri Taluk**. This property was acquired

under the provisions of Land Acquisition Act, 1894 (hereinafter referred to as "Act") and an award was passed on 31.05.2006. While so, on 20.05.2016, certain Rajshree N.Mehta informed the petitioner about the passing of the award and immediately he made a representation to the second respondent on 02.06.2016 seeking to refer her case under Section 18 of the aforesaid Act to the concerned Civil Court and the same was rejected by the Collector on the grounds of Limitation.

2. Mr.M.Karthikeyan, the learned Additional Government Pleader submitted that notice under Section 12(2) of the Act was served on the petitioner even on 31.05.2006 and that the compensation awarded to the petitioner as per the said award was deposited in the account of the petitioner on 03.05.2016. The learned Additional Government Pleader brought to the notice of the Court that the files containing served Notice under Section 12(2) of the Act and also payment register. Both of them are perused.

3. So far as Section 12(2) Notice is concerned, the same that has not been served on the petitioner but on certain Muniyandi. Inasmuch as, no notice was not served about the passing of the award in terms of Section 12(2) of the Act. This Court has to revoke and meet on which the amount was deposited on the ECS account of the petitioner by the Special Tahsildhar on 03.05.2016 that alone has been reckoned such date on which the petitioner put on notice about the passing of the award. Be that as it may, the petitioner has produced a copy of the award passed under the Act in L.A.O.P.No.32 of 2009, wherein, a compensation for adjacent lands were enhanced to Rs.25,000/- per cent. This award was passed in the case of Rajshree N.Mehta, who the petitioner claimed as one who informed her about the award passed before the Lok Adalat on 31.03.2012.

4. Inasmuch as, the petitioner was kept in dark about the passing of the award immediately thereafter, it is not given to the respondent to reject the petitioner's request for Reference under Section 18 of the Act on the grounds of limitation. Since the award for the adjacent owner namely Rajshree N.Mehta has already been passed in the Lok Adalat in a reference made to the Court under Section 18 of the Act, the petitioner is also entitled to seek parity in matter of payment of compensation. To achieve this end, it is not necessary that the petitioner must have a reference made under Section 18, since Section 28A of the Act provides an alternative route to obtain the same benefit.

5. The learned counsel for the petitioner agrees to the same. This Court therefore quashes the order of the Collector and directs the petitioner to file a fresh representation under Section 28-A of the Land Acquisition Act, to the Collector, to

extend parity to her on the basis of the Award of the Lok Adalat in L.A.O.P.No.32 of 2009 within a period of four weeks from the date of receipt of a copy of this order and the third respondent/District Collector shall dispose of the same within four weeks thereafter. It is however, made clear that the petitioner would not be entitled to any interest for delay-period till the filing of the representation on 02.06.2016.

6. With the above direction, this Writ Petition is allowed in the manner indicated hereby and impugned order dated 20.06.2016 made in Na.Ka.No.4/2002.A1/Unit - 6 on the file of the second respondent is quashed. No costs.

Sd/-
Assistant Registrar(CS IX)
09.04.2018
***Amended as per order of
this Court dated 07.06.2018
and made in WP.No.24973 of 2016**

Sd/-
Assistant Registrar(CSII)
dt 11.06.2018 //True Copy//

Sub Assistant Registrar

mrr
To

1. The Member Secretary,
CMDA, Thalamuthu Natarajan Maaligai,
Egmore, Chennai - 600 008.
2. The Land Acquisition Officer and
Special Tahsildar (L.A) Unit - 6,
O.R.R. Project Phase - II,
CMDA, Koyambedu,
Chennai - 600 092.
3. The District Collector,
Thiruvallore District,

**To be Substituted to
the order already
despatched on
02.05.2018**

+1cc to Mr.V.Perumal, Advocate, S.R.No.12757
+1cc to the Government Pleader, S.R.No.15398

+1cc to Mr.P.Tamilmani, Advocate in sr.no.35257
+1cc to Mr.V.Perumal, Advocate in sr.no.35809

W.P.No.24973 of 2016

KGK(CO)
CS/11/04/18
CS/11/06/18