

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.1844 of 2018

Madhanmohan

.... Petitioner

-Vs-

1.The Land Acquisition Officer cum
Revenue Divisional Officer
Dharmapuri.

2.The District Collector
Dharmapuri.

.... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Direction, directing the first respondent to refer the case of the petitioner in respect of the land in survey numbers 116/1, 116/2, 117/12, 117/13, 118/8, 118/9, 118/10, 119/7B, 119/9, 120/3A, 127/2, 128/1A, 128/1B, 128/2, 129/1, 130/2, 130/3, 130/4, 131/1, 131/2, 131/4, 132/1, 132/3, 133/1, 133/2, 133/3, 133/5, 137/3, 138/6, 138/8A, 138/10A, 139/1, 139/4, 139/5, 139/6A, 143/1A, 144/1, 144/2, 145/1, 145/2, 146/1, 146/2, 147/1, 147/2, 147/3, 147/4, 148/1, 148/2, 148/3, 148/4, 148/5, 148/6, 148/7, 148/8, 148/9, 148/10, 148/11A, 148/12A2, 149/1, 149/2, 149/3, 149/4, 149/5 in total to an extent of 14.40.5 hectares of land at Somanahalli Village, Dharmapuri Taluk and the land situated in S.Nos.54/4A2, 54/4B, 56/4D, 56/4F, 56/4G and in total to an extent of 0.63.5 hectares of land at Pangunatham Village, Dharmapuri District and in total land to an extent of 15.04.0 hectares of land to the Subordinate Court, Dharmapuri under Section 18(1) of the Land acquisition for enhanced compensation based on the petition dated 30.08.2016.

For Petitioner : Mr.S.C.Vishwanth

For Respondents : Mr.M.Karthikeyan AGP

ORDER

The petitioner claims that he is the owner of a block of land comprised in several survey numbers in Somanahalli Village and Pangunatham Village of Dharmapuri District, ad-measuring total extent of 15.04.0 hectares and they were acquired along with

1894 for establishing a substation by the Power Grid Corporation of India. On 31.08.2012, an award was passed and a sum of Rs.42,62,347/- was deposited by the Special Tahsildar before the Sub Court, Dharmapuri under Section 31(2) of the Land Acquisition Act, 1894 in LAOP.No.6/2012. The petitioner moved a strange application styled as Claim Petition for seeking enhancement of compensation. LAOP was disposed of in the Lok Adalat in Lok Adalat Case No.484/2015 on 09.12.2015, and a consensus award in the presence of the first respondent was made, wherein an award was passed in favour of the petitioner to receive the amount already deposited by the Land Acquisition Authority under Section 31 of the Act. And on the point of Reference sought for enhancing the compensation, it is recorded in the Award of the Lok Adalat that the respondent had no objection in the petition filed by the petitioner to claim compensation under Section 18(1) of the Land Acquisition Act.

2. In this case, no counter has yet been filed. Mr.M.Karthikeyan, learned Additional Government Pleader takes notice for the respondents and made some submissions on instructions. It is submitted that the petitioner has entertained a procedure unknown to the Land Acquisition Act, 1894 and the same the Act does not recognise. Under Section 18 of the Land Acquisition Act, 1894, Reference can be made only by the Collector and there are conditions as to limitation stipulated for making the reference even under Section 18 of the Act. This cannot be a subject matter of Award of the Lok Adalat, since the statutory power to perform a statutory duty cannot be handed over through Legal Aid mechanism without references to the very statute that governs the area. Secondly, argued the learned Additional Government Pleader, there is nothing called Claim Petition in LAOP taken on file under Section 31 of the Land Acquisition Act, 1894. This ground also has to be read in conjunction with the earlier ground in the sense that the Sub Court on its own cannot take any matter for considering the enhancement of compensation unless the same is referred to it, by the District Collector.

3. Heard the learned counsel for the petitioner. The learned counsel for the petitioner submitted that the lapses there might have been, yet its reflection may not affect the substantial rights of the petitioner.

4. As to the competency of the signatory to the Lok Adalat proceedings to concede or lend his no objection for referring the matter under Section 18 of the Act, this Court does not want to pass an opinion in view of the decision to be spelt out below.

5. The award in this case is passed on 31.08.2012 and the so called claim petition was made on 20.03.2013. It is not known whether notice regarding passing of the award was served on the petitioner, or, when exactly the petitioner came to know about the passing of the award. At any rate, the petitioner has declared his intention to seek enhancement of compensation within about 6 ½ months from the date of passing of the award and this, in the circumstances, this be considered unreasonable or excessive. True, the petitioner has approached the wrong forum and adopted a wrong procedure to obtain that which the law grants him. It would have been appreciable if the counsel for the petitioner has spared some concern in the matter and had guided the petitioner properly. However, it may not be appropriate for this Court to deny the petitioner of the benefits that the statute confers on the petitioner solely founded on the lapses such as the one, this Court now witnesses in this case.

6. Accordingly, this petition is disposed of with a direction to the petitioner to present a fresh representation to the District Collector within two weeks from the date of receipt of a copy of this Order to seek a reference of the matter to the concerned Civil Court, and the same may be taken on file as if it was filed on 20.03.2013, the date on which the petitioner has approached the Sub Court, Dharmapuri with a claim petition, and refer the matter in accordance with law. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

1.The Land Acquisition Officer cum
Revenue Divisional Officer
Dharmapuri.

2.The District Collector
Dharmapuri.

+1cc to Mr.S.C.Vishwanth, Advocate, S.R.No.16570

+1cc to the Government Pleader, S.R.No.17113

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