

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 11.01.2018

Judgment Pronounced on : 28.04.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.27927 of 2016

1.K.Venkatesan
2.Shanthi ... Petitioners
(2nd petitioner is represented by her
Power of Attorney Agent, the 1st petitioner)

-Vs-

1.The Collector of Vellore District
Office of the Collectorate
Sathuvachari
Vellore - 632 009.
,
2.The Deputy Collector of Vellore District
Office of the Collectorate
Sathuvachari
Vellore - 632 009.
3.The Divisional Engineer
National Highways
Vellore - 632 009.
4.The Land Acquisition Officer &
Revenue Divisional Officer
Sathuvachari
Vellore - 632 009. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent culminating in the impugned orders under Ref.No.Na.Ka.Bi.1/11752/76, dated 08.12.2015 and

quash the same in respect of the wrong name appeared in the said impugned award and direct the fourth respondent to insert/correct/substitute the petitioners' father name in the said award No.A2/11752/76 dated 07.12.1982 in respect of the lands covered under Town Survey No.72/2, situated at North

Vellore, North Arcot District, as detailed in the schedule to the writ petition for amendment, consequently further direct the respondents 3 and 4 to refer the same under Section 18 of the Land Acquisition Act, to Civil Court for the purpose of determination of exact market value as on date of Section 4(1) notification in respect of the entire lands as detailed hereunder :-

Town Survey and Patta Nos.	Extent in sq.ft.
61/1A - Patta No.800	0 - 565
61/2A - Patta No.800	0 - 346
2986/1 - Patta No.800	0 - 1,481
72/2	0 - 19,075 (out of total extent of 33985 sq.ft.)
Total Extent :	21,461 sq.ft.

For Petitioners : Mr.M.S.Mani

For Respondent : Mr.Akhil Akbar Ali
Government Advocate [R1,R2 & R4]

ORDER

In this petition where the petitioners adopt a technique of pleading by reference, reference being to their affidavit in their earlier writ petition in W.P.No.20760/2000, they seek this Court to issue a Writ of Certiorari to quash an order of the District Revenue Officer, rejecting the petitioners' representation to refer the matter to a Civil Court under Section 18 of the Land Acquisition Act, 1894.

2. The petitioners' father was holding a parcel of land in Town Survey Nos.61/1A, 61/2A, 29, 86/1, & 72/2 of Vellore Town, Vellore District. Out of the said property, an extent 21,467 sq.ft., was acquired under the provisions of the National Highways Act. The Land Acquisition Officer, the fourth respondent had passed an Award dated 07.12.1982. At that time, since petitioner's father Kuppusamy Mandiri was no more, that their mother Lakshmiammal had appeared before the Land Acquisition Authority, based on which an award was passed in her

name. This amount was subsequently deposited in the Sub Court, Vellore under a Reference made under Section 30 of the Land Acquisition Act, 1894, which was taken on file as LAOP.No.8 of 1986. On 24.3.1992, this was allowed in favour of the petitioner's mother Lakshmiammal.

3. Contending that the petitioner and her sister were minors at that relevant time and also alleging that Section 4(1) notification was wrongly issued in the name of their father Kuppusamy Mandiri who died at least some 2 ½ years from the date of the said notification, they filed W.P.No.20760 of 2002 for Writ of Mandamus to correct the name of the father in the Award, and also to refer the matter to the concerned Civil Court under Section 18 of the Land Acquisition Act. This Court, Vide its order in W.P.No.20760 of 2002 dated 11.01.2013, directed the petitioners to make a fresh representation along with the copy of the title deeds pertaining to the subject to the fourth respondent, with a further direction to the fourth respondent, that on receipt of the same, to dispose of the same within a period of three months thereafter. This was followed by the petitioner preferring a fresh representation dated 09.10.2015. In this, the petitioner has essentially sought a Reference under Section 18 of the Land Acquisition Act 1894. Vide impugned order dated 08.12.2015, the District Revenue Officer had rejected the same since the request for Reference was not made within 6 months from 07.12.1982, the date of the award in terms of Sec.18(2) of the Act. This is now under challenge.

4. Admittedly the award in this case has been passed on 07.12.1982 and the first attempt by the petitioner to seek a direction from this Court to direct the Land Acquisition Authority to make a reference under Section 18 of the Land Acquisition Act, 1894 was in the year 2002, some 20 years since the passing of the award. Even in its order in WP.20760 of 2002 dated 11.01.2013, this Court has only directed the petitioner to prefer a fresh representation and chose not to pass any direction such as the one sought. Here it is however required to be emphasised that the petitioner's prayer in W.P.20760/2002 was twin-fold which included not just a prayer for making a reference under Section 18 of the Act, but also to correct the name of the petitioner's father in Section 4(1) notification. In the representation dated 09.10.2015, which the petitioners had filed following the direction of this Court in W.P.20760 of 2002, the petitioners confined their request to the Land Acquisition Officer to one pertaining to making reference under Section 18 of the Act. This representation, if reckoned from the date of the award, is preferred 33 years since the passing of the award. In other words, the petitioner's attempt to have a Reference made under Section 18 was made after a delay of anywhere between 20-33 years.

5. Sec.18 of the Land Acquisition Act does not provide for any condonation of delay. If the land owner was not present at the time of passing of the award, then they would be entitled to seek reference within a period of six months from the date of receipt of notice under Section 12(1) of the Act. Admittedly, petitioner's mother Lakshmiammal had participated in the award enquiry which could be seen from the very reading of the copy award available in the typed set of papers. She, during her lifetime, has chosen not to seek any reference at any point of time. Even if the date of the order in LAOP.No.8 of 1986 which was pursuant to the reference made under Section 30 of the Land Acquisition Act, 1894 is reckoned, even then the order therein was passed as early as in 1986. The mere fact that the petitioners was minor at that relevant time is no ground to entertain a prayer for Reference after anywhere between 20-33 years. If this is entertained then no award, or at the least many of the awards could be saved from the peril of uncertainty. The petition is badly hit by latches and delay.

6. In the result, this petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

ds

To:

- 1.The Collector of Vellore District
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4.The Land Acquisition Officer &
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Sathuvachari
Vellore - 632 009.

+1cc to Mr.S.Mani, Advocate SR.No.32950
+1cc to Government Pleader SR.No.32751

W.P.No.27927 of 2016

GN(05/06/2018)



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