

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.28997 of 2016

Lalith Kumar Jain

... Petitioner

Vs

1. The Member - Secretary,
Thalamuthu Natarajan Maligai,
Egmore, Chennai-600 008.

2. The Special Tahsildar (L.A.)
O.R.R.Project, C.M.D.A.,
Koimbedu,
Chennai-600 092.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to impugned order dated 23.06.2016, made in Na.Ka.No.9/2002 A1/Unit 6 on the file of the 2nd respondent to quash the same and consequently direct the 2nd respondent to make reference under Section 18 of the Land Acquisition Act to the jurisdiction Civil Court.

For Petitioner : Mr.V.Perumal

For Respondents : Mr.M.Karthikeyan
Additional Government Pleader for R2
For Mr.C.Johnson for R1

O R D E R

The present petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to impugned order dated 23.06.2016, made in Na.Ka.No.9/2002 A1/Unit 6 on the file of the 2nd respondent to quash the same and consequently direct the 2nd respondent to make reference under Section 18 of the Land Acquisition Act to the jurisdiction Civil Court.

2. In the affidavit filed in support of the petition, the petitioner has averred that he was the owner of the land comprised in S.No.3/2B2B measuring an extent of 0.395 hectares situated at Kummanoor Village, Ponneri Taluk, Tiruvallur District, that the same was mortgaged to one Mr.Ujwala Jain under a mortgage deed dated 11.09.1997 that the petitioner has

been continuous possession and enjoyment of land as a owner of the said property, that the Government has issued a notification under Section 4(1) of the Land Acquisition Act, 1894, dated 13.01.2005 for formation of the Outer Ring Road, that an award was passed on 31.12.2007, however, without any notice of the same to the petitioner. Be that as it may, some owners of the adjacent lands that were acquired under the same notification have sought reference and the same was taken on filed in L.A.O.P.No.56/2008 on the file of Sub-Court, Ponneri, that the same was subsequently referred to Lok Adalat for resolving controversy regarding enhancement of compensation sought by the petitioners thereof, that the said reference to the Lok Adalat was taken on as Lok Adalat Case No.11 of 2011, wherein an award was passed on 09.06.2012. The petitioner would further aver that on 25.01.2016, he happened to meet Mr.Vijaya Kumar, the petitioner in L.A.O.P.No.56/08, (which as earlier indicated was disposed of through the Lok Adalat) and in that chance meet Mr.Vijaya Kumar had informed the petitioner about the enhancement of compensation he has received under the Award of the Lok Adalat whereupon the petitioner has moved the authorities with a representation dated 07-06-2016 with a request to make a reference under Section 18 of the Land Acquisition Act to the Court concerned and that the same was rejected by the authorities concerned Vide the impugned Order dated 23.06.2016 on the ground that the petitioner has sought reference well beyond the limitation provided therefor under Section 18 of the said Act.

3. Mr.M.Karthikeyan, learned Additional Government Pleader appearing for the respondents. No counter is filed.

4. The learned counsel for the petitioner submitted that it is sufficient even if this Court treats representation of the petitioner as one under Section 28A of the Land Acquisition Act, and extent parity to the petitioner in the matter of payment of compensation in terms of the award passed in Lok Adalat No.11 of 2011, arising out of L.A.O.P.No.56/2008.

5. Mr.M.Karthikeyan, learned Additional Government Pleader submitted that in paragraph No.4 of the affidavit filed in support of the petition, the petitioner has conceded that he has obtained knowledge of passing of the award by the Lok Adalat even on 25.01.2016, that under Section 28-A of the Land Acquisition only three months time is provided for approaching the Collector, that admittedly the petitioner has moved the Collector only on 07.06.2016 at least someone and half months beyond the time statutorily stipulated to invoke Section 28A, and hence, the present representation of the petitioner even if it were to be considered as one under Section 28A it would still be beyond time.

6. Under Sec.28-A, time has to be reckoned only from the date of the award passed under Sec. 18 by the Reference Court, and that inasmuch as the said award was passed by in a Lok Adalat, the same shall have the same status as an award of the Reference Court, and that time has to be reckoned only from the date of the Award of the Lok Adalat. This is on 25.01.2016. However, it must also be noted Section 28-A has also provided that time required for obtaining the certified copy of the award has to be excluded. In the award of the Lok Adalat, copy which is made available in typed set of papers does not indicate the date on which an application for obtaining a copy there of was available and also the date on which it was issued.

7. Taking into consideration the facts and circumstances, more particularly the submission of the learned counsel for the petitioner on his representation dated 07.06.2016, seeking to invoke Section 18 of the Land Acquisition Act, the same may have to be treated as one under Section 28-A of the said Act.

8. This petition is partially allowed and accordingly quash the impugned order in Na.Ka.No.9/2002 A1/Unit 6 dated 23-06-2016 of the second respondent and remand the matter back to him who shall now treat the same as a representation made under Section 28-A of the Land Acquisition Act. The petitioner is however will not be entitled to any interest for the period of delay. No costs.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

ssn

To

1. The Member - Secretary,
Thalamuthu Natarajan Maligai,
Egmore, Chennai-600 008.

2. The Special Tahsildar (L.A.)
O.R.R.Project, C.M.D.A.,
Koimbedu, Chennai-600 092.

+1cc to Mr.V.Perumal, Advocate SR.No.5300
+1cc to Mr.C.Johnson, Advocate SR.No.5594

W.P.No.28997 of 2016

GN(09/03/2018)