

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.28920 of 2007
and
W.P.M.P.No.1 of 2007

G.Pappathi

...Petitioner

Versus

1. The District Collector,
Salem District, Salem.

2. The Revenue Divisional Officer,
Mettur, Salem District.

3. The Executive Engineer,
Public Works Department,
Melpannaiyur Sub Division,
Dharmapuri - 5.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Mandamus directing the respondents to refer the Award No.1/2001-2002 dated 25.12.2001 in R.O.C.No.2014/88/F to the competent Civil Court for enhancement of the true market value of the land under Section 18 of the Land Acquisition Act in respect of the lands in S.F.No.72/1A-1, 72/1D1, and 72/1E1 situated in Thetigiri Village, Mettur Taluk, Salem District.

For Petitioner : Mr.T.Ganeshan Vivekanandhan

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

O R D E R

The short question involved in this case is that the petitioner's lands were acquired under the provisions of Land Acquisition Act, 1894 (hereinafter referred to as "LA Act") and that the petitioner has preferred a representation to the District Collector for making a reference to the Civil Court concerned under Section 18 of the LA Act. Since the same was not done, he has come forward with this petition.

2. The learned counsel for the petitioner submitted that on 25.12.2001, an award was passed but the same was communicated only Vide notice under Section 12(2) of the LA Act dated 27.02.2007. On the very same date, petitioner received the compensation amount and made a objection orally to the Authority concerned and the petitioner was under a bonafide impression that the objection to the inadequacy of the compensation has been recorded. Subsequently, the petitioner back this with another representation dated 30.06.2007, but this was not referred till date. He also submitted that on 03.03.2007, the compensation amount of Rs.69,283/- (Sixty Nine Thousand Two Hundred and Eighty Three Rupees) was paid and on the same date, petitioner made an oral objection to the quantum of compensation awarded.

3. No counter affidavit in this case has been filed. Mr.Akhil Akbar Ali, the learned Government Advocate appearing for the respondents submitted that notice under Section 12(2) as per Section 18 of the LA Act, representation for reference under Section 18 of the LA Act should be made even within six weeks from the date of service of Notice under Section 12(2) of the LA Act and in this case, it is well beyond two months time when the petitioner preferred a written representation on 30.06.2007.

4. Responding to the same, the learned counsel for the petitioner would submit that the petitioner is not adequately educated but at the same time, she had made an oral objection to the quantum of compensation awarded and trusted that the Land Acquisition Authority would take steps to refer the matter and only when she came to know that reference has not been so made. The oral objection is as good an objection as the written one for the purpose of making the Reference under Section 18 of the Act, contended the counsel. Now, if the respondents are given to respecting time and limitation, then why did they not issue notice under Section 12(2) about the passing of the award immediately as is mandated in the statute?

5. The Government is not known to be sticklers of time and the bureaucratic machinery that is in charge of administration rarely appeared to have valued time as precious, especially when it is required to perform or deliver something. But it tolerates little if those who deal with it does not respect time. So much about its righteousness. Now, in the context of the present case, the petitioner also claims that she had orally objected to the quantum of compensation awarded. This may not have been recorded by the Authority, but then what material has this Court to suspect the petitioner and believe the respondents? In cases, where a right/benefit that a Statute confers on the citizens is in peril, in the absence of anything

to suspect, it is necessary to lean in favour of the citizen. This case is one where this Court prefers to protect the right of the petitioner which the Statute has granted her: To seek Reference under Section 18.

6. This Court accordingly directs the first respondent to refer the matter to the concerned Civil Court under Section 18 of the LA Act within a period of six weeks from the date of receipt of a copy of this order. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mrr

To

1. The District Collector,
Salem District, Salem.
2. The Revenue Divisional Officer,
Mettur, Salem District.
3. The Executive Engineer,
Public Works Department,
Melpannaiyur Sub Division,
Dharmapuri - 5.

+1cc to Mr.T.Ganesan, Advocate, S.R.No.19728

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AK(CO)

RRK(15/05/2018)

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