

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.5133 of 2018

A.Kalapariipoorna

.. Petitioner

Vs.

1.The State of Tamil Nadu

Rep by the Secretary to Government
Housing and Urban Development Department
Fort St.George,
Chennai - 600 009.

2.The Special Tahsildar (Land Acquisition)

Unit-4, Outer Ring Road Project
Chennai Metropolitan Development Authority
Koyambedu, Chennai - 600 092.

3.The Chennai Metropolitan Development Authority

Rep by its Member Secretary
Egmore, Chennai - 600 008.

4.The Tamil Nadu Road Development Company Ltd.,

Rep by its Managing Director,
No.171, 2nd Floor, Tamil Nadu
Maritime Board Buildings
Pasumpon Muthuramalingam Raod
Raja Annamalaipuram
Chennai - 28.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order of the second respondent issued in RC.No.6/2011/A1/ORR/Unit IV in Award No.4 of 2013, dated 12.12.2013 and quash the same.

For Petitioner : Mr.N.R.Chandran

Senior Counsel for Mr.B.S.Jyothiraman

For Respondents: Mr.C.Thirumaran

Special Govt. Pleader [R1 & R2]

Mr.P.S.Ganesh [R3]

Mr.M.Sivavarthanan [R4]

ORDER

The present writ petition is filed for issuance of Writ of Certiorari for quashing the Award No.4 dated 12.12.2013

2. The case of the petitioner is that a certain Jayarama Reddy and Nagarathinammal owned 71 acres in Survey No.125/3, 126/1A, 127/6, 127/1B, 127/5 at Minjur Village, that the petitioner and her sister Sailaja was the heirs of Jayarama Reddy and Nagarathinammal, that they were in joint possession of the said property and cultivating the same. It appears that for the formation/development of Chennai Outer Ring Road Phase-II, the petitioner's land was acquired. This, the petitioner came to know only on 02.9.2013. Immediately, the petitioner wrote to the second respondent (Special Tahsildar, Land Acquisition), enclosing the death certificate of her parents as well as her legal heir certificate, but the petitioner did not receive any reply to it.

2.2. Since the petitioner did not receive any information about what transpired in the land acquisition proceedings, she invoked the provisions of Right to Information Act and sought for information about the land acquisition proceedings Vide communication dated 28.11.2015. This was replied to Vide communication dated 29.12.2015, in which, she was informed that a sum of Rs. 1,71,97,351/- was deposited in the Sub Court, Ponneri on 02.6.2015, in the name of Jayarama Reddy, S/o.Senjurama Reddy. The said reply also informed that no notice appeared to have been issued to the land owners about the deposit of compensation amount in the Court.

3. It is argued that no notice under Section 4(1) notice of the Land Acquisition Act, 1894 was issued, nor no notice was issued under Section 5(A) thereof. The petitioner's father Jayarama Reddy had expired on 17.01.2002, and her mother Nagarathinammal had died five days prior to the date of 4(1) notification dated 18.07.2012. The learned Senior Counsel added that no notice under Section 12(2) was issued, that in the meantime, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred to as "Right to Fair Compensation Act"), came into effect, and that the petitioner is entitled to the benefit of the same. However, the learned Senior Counsel appearing for the petitioner conceded that the petitioner might not be entitled to claim the benefit of the Right to Fair Compensation Act and subject to the proof of service of notice under Section 9 and Section 10 of the Land Acquisition Act, 1894, on the petitioner, the award passed will have to be quashed and in which eventuality the land acquisition authority

have to initiate fresh proceedings under the Right to Fair Compensation Act, and pass an award in terms of the said Act.

4. Mr.C.Thirumaran, learned Special Government Pleader entered appearance for the respondents 1 and 2, Mr.P.S.Ganesh, learned counsel entered appearance for CMDA (3rd respondent) and Mr.M.Sivavarthanan, learned counsel for the fourth respondent, and produced the official file pertaining to the acquisition. On perusing the official file, it is seen that the petitioner has appeared before the authority concerned and agreed to receive the compensation awarded under "Objection". This would imply that the petitioner knew about the passing of the award.

5. The only remedy now open to the petitioner is to seek enhancement of compensation, if at all, she is aggrieved by the award passed on the grounds of its inadequacy, under Section 18 of Land Acquisition Act, 1894. Since the petitioner has raised her objection even in the award proceedings, it is the mandatory duty of the Collector to refer the matter under Section 18 of the Land Acquisition Act, 1894. This however, has not been done.

6. Be that as it may, a certain Deepthi, claiming herself to be the niece of the petitioner [grand daughter of Jayarama Reddy and Nagarathinammal through their another daughter named Girija, now deceased] wants to implead herself in these proceedings on the ground that the petitioner has withdrawn the entire compensation amount deposited by the land acquisition authority in the Civil Court. Since the grievance of the proposed intervenor is essentially directed against the petitioner, she could pursue such remedies open to her in law.

7. This Court, therefore allows the petition with a modification directing the second respondent herein to make a reference to the Court concerned under Section 18 of the Land Acquisition Act, 1894. Once reference is made, the concerned Court is directed to issue notice also to Dr.V.Deepthi, W/o. Dr.P.Sarath Reddy, Rama Reddy Palayam Village, Minjur, Ponneri Talu, Tiruvallur District.

8. Accordingly, this petition is partly allowed in the above terms. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Secretary to Government
State of Tamil Nadu
Housing and Urban Development Department
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Unit-4, Outer Ring Road Project
Chennai Metropolitan Development Authority
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3.The Member Secretary,
Chennai Metropolitan Development Authority
Egmore, Chennai - 600 008.

+ 1 cc to Mr. B.S. Jothiraman, Advocate SR.52080
+ 1 cc to MR. P.S. Ganesh, Advocate SR.52202
+ 1 cc to Mr. M. Sivavarthan, Advocate Sr.52353
+ 1 cc to Mr.R. Munuswamy, Advocate Sr.52953
+ 1 cc to Mr.Government Pleader SR.52460

W.P.No.5133 of 2016

RK(CO)
EU(28/08/2018)

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