

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

W.P.No.35640 of 2003

1. R.Krishnammal
2. R.Ramesh
3. Ms.Bavani

2 and 3 represented by their
Power Agent Mrs.R.Krishnammal

.. Petitioners

Vs.

1. Commissioner for Land Administration
Chepauk, Chennai - 600 005.
2. District Collector,
Kancheepuram.
3. Superintending Engineer,
Highways and Rural Works
Sardar Patel Road, Radial Road,
Guindy, Chennai - 600 025.
4. Special Tahsilar (LA)
Inner Ring Road Scheme
Guindy, Chennai - 600 025.

.. Respondents

Prayer :- Writ Petition has been filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to direct the respondents herein to pay interest at the rate of 12% per annum on the sale price amount of Rs.35,60,193/- from April 2000 to 03.02.2003 which works out to Rs.12,10,430/-.

For the Petitioners : No Appearance

For the Respondents 1 to 4 : Mr.N.Inbanathan
Additional Government Pleader

ORDER

This writ petition is preferred by the petitioner to directing the respondents to pay interest at the rate of 12% per annum on the sale price amount of Rs,35,60,193/- from April 2000 to 3.2.2003 which works out to Rs.12,10,430/-

2. Brief case of the petitioner:

The facts of the case is that the 1st petitioner is the absolute owner of the lands in Survey Nos.657/281-A (45 cents) second petitioner is the owner of Survey No.704/5 (84 cents) and the third petitioner is the owner of Survey No.703/A1A and 1A2 (57 cents) aggregating to 1.86 acres situated at Pallikaranai village, Tambaram Taluk, Kancheepuram District. Petitioner as a power of attorney of petitioners 2 and 3 was in possession and management of the entire extent of 1.86 acres. The 3rd respondent herein with a view to form 200 feet Radial road in package 8 in Pallikarani village trespassed into the petitioners' land without any authority and started forming the road thereon without their knowledge in or about March 2000. After coming to know about the trespass, the 1st petitioner herein raised her objections before the 3rd respondent by way of letter dated 10.4.2000. Thereafter issued various notices to the third respondent and his subordinates asking them to desist from laying the road on our land. Though at certain stage the highways department came forward by letter dated 17.1.2001 with a proposal to give us alternate lands in exchange which proposal we agreed, that proposal was unilaterally dropped by them after quite some time. 3rd respondent addressed the District Collector Kancheepuram to acquire the lands by private negotiations under G.O.Ms.No.885 dated 21.9.1985 issued by the State Government to acquire of 1.51 acres out of the total extent of 1,86 acres referred to above through private negotiation without resorting to land acquisition proceedings under the land acquisition act. Thereafter steps were taken to fix the price for their lands by the Revenue authorities under the criteria laid down in the said G.O. The negotiation process before the District Level Committee and the ultimate fixation of price took considerable delay; the state level committee constituted under the said G.O. fixed the price for 1.51 acres of lands at Rs.52.50 per cent. On the petitioners agreeing to sell that extent at the said rate of Rs.52.50 per cent, petitioners were executed the sale deed on 3.2.2003 infavour of the 4th respondent on payment of the sale price of Rs.35,60,193/-

3. Heard the arguments on either side and perused the entire materials available on record.

4. The learned counsel for the petitioners submits that the entry into the petitioners' lands by the 3rd respondent took place in April 2000 and the road was being laid since then inspite of protest, the price for the land was given only on 3.2.2003. Petitioners are entitled to interest on the amount of

sale price amount Rs.35,60,193/- for 34 months at the rate of 12% from April 2000 to 3.2.2003. Even in G.O.Ms.No.885 dated 21.9.1995 it has been provided for payment of interest towards the cost of the land acquired. In fact, during the enquiry before the District Revenue Officer, Kancheepuram held for fixing the negotiated price, it was represented by the 3rd respondent that as interest at 12% will be paid on the price fixed and agree for the price offered by the Revenue Department. Petitioners told the third respondents that in many cases of this kind where there is considerable delay in payment of the value for the land already taken over for road purpose such interest had been to acquire lands through private negotiation without invoking the land acquisition act.

5.The learned counsel for the petitioners submits that the petitioners are entitled to a reasonable rate of interest on the amount of compensation paid to the petitioners after a delay of nearly three years. Petitioners have been deprived of the use and enjoyment of the lands for nearly three years.

6.The learned counsel for the petitioners submits that the petitioners are entitled to be paid interest as compensation for the deprivation of the use of the land for nearly 34 months. The unauthorized entry into the petitioners lands by the Highways department before their actual acquisition as per law amounts to a tort as also a criminal trespass. The said tortuous act gives rise to their claim for compensation by way of interest.

7.The learned Additional Government Pleader appearing for the respondent opposed the contentions of the petitioner/accused and sought for dismissal of the writ petition.

8.Admittedly the writ petitioners lands were acquired by the respondents, but the compensation amounts were paid belatedly. Therefore, the petitioners seek the interest for the delayed period which cannot be decided in this writ petition. Therefore, the petitioners ought to have approach the respondents by way of representation.

9.In the result:

(a) the writ petition is disposed of by directing the petitioners to make a representation to the respondents within a period of four weeks from the date of receipt of a copy of this order;

(b) on receipt of the representation within the stipulated period of time, the respondents are directed to consider the petitioners' representation, by giving personal opportunity to the petitioners within a period of twelve weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vs

To

1. Commissioner for Land Administration
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2. District Collector,
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3. Superintending Engineer,
Highways and Rural Works
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4. Special Tahsilar (LA)
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+1 cc to the Government Pleader, S.R.No.40953

W.P.No.35640 of 2003

RSN(CO)
SSM(25/03/2019).

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