



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.A(MD)No.1041 of 2016

Sahul Hameed

... Appellant/Petitioner

Vs.

1. The State of Tamil Nadu
represented by its Secretary to Government,
Department of Land Administration,
Fort St.George, Chennai - 600 009.

2. The Revenue Divisional Officer, Ramnad.

3. The Special Tahsildar, Land Acquisition, Ramnad.

4. The Executive Engineer and
Administrative Officer,
The Tamil Nadu Housing Board,
Ramanathapuram Housing Unit (TNHB),
Ramanathapuram.

... Respondents/Respondents

(4th respondent impleaded vide Court order dated 16.02.2017 made in
C.M.P.(MD)No.1494 of 2017)

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent
against the order of this Court in W.P.(MD)No.2951 of 2009, dated
05.04.2016.

Prayer in WP(MD)No.2951 of 2009 :

Writ Petition filed under Article 226 of the Constitution
of India, praying this Court to issue Writ of Certiorarified
Mandamus to call for the records relating to the impugned order
passed by the second respondent dt 17.01.2009 in his Roc.A6/179/1990
and quash the same and to direct the second respondent to send the
matter for reference under section 18 of the Act for the lands
Acquired in S.No.59/3B measuring 6950 sq.ft. situated in
Pattinamkathan village, Ramnad Taluk and District as per the Award
No.1/97-98 dated 03.04.1997 to the Sub-Court, Ramnad.

For Appellant : Mr.M.Mohammed Ibrahim Ali

For R1 to R3 : Mr.D.Muruganantham

<https://hcservices.ecourts.gov.in/hcservices/>

Additional Government Pleader

For R4 : Mr.R.Janarthanan

**JUDGMENT**

**(Judgment of the Court was delivered by
S.S.SUNDAR, J.)**

This writ appeal has been filed as against the order of the learned Single Judge of this Court in W.P.(MD)No.2951 of 2009, dated 05.04.2016.

2.The appellant is the absolute owner of land to an extent of 9650 sq. ft., in S.No.593B in Pattinamkatathan Village, Ramnad District, which was acquired for the purpose of Tamil Nadu Housing Board. After acquisition, proceedings were over and award was passed in respect of lands belonging to the appellant on 03.04.1997. As per the Award, a sum of Rs.58,769/- was awarded as compensation for the land along with 30% solatium and 12% additional market value.

3.On a perusal of the Award passed by the Land Acquisition Officer, it is seen that the appellants and others refused to receive the compensation. It is also recorded that all the land owners have expressed their dissatisfaction over the quantum of compensation. It is in the said circumstances, even at the time of passing of Award, the Revenue Divisional Officer, Ramnad, has directed the matter to be referred to Civil Court under Section 18 (1) of the Land Acquisition Act. The appellant has made several representations on many occasions and also on 05.11.2008. The representations of the appellant were turned down, on the ground that no application was made before the Revenue Divisional Officer, Ramnad, seeking reference and that therefore, the question of referring the matter to the Civil Court does not arise at all.

4.The order of the Revenue Divisional Officer was challenged by the appellant herein in the writ petition in W.P.(MD)No.2951 of 2009. The learned Single Judge of this Court dismissed the writ petition relying upon the statement of the second respondent herein, that the no petition is pending on the file of the second respondent and that therefore, there is no question of referring the matter to the Civil Court under Section 18(1) of the Land Acquisition Act. The Writ Court, however, directed the appellant herein to give fresh petition to the third respondent herein while dismissing the writ petition. Since the petition for reference under Section 18(1) of the Land Acquisition Act has to be submitted within the time prescribed, the appellant herein is aggrieved by the order, even though he has been permitted to submit a fresh representation.

5.The learned Additional Government Pleader produced before the Court, the copy of the order dated 03.04.1997, in respect of compensation for the lands belonging to the appellant and few others. Even as per the Award itself, the second respondent has observed that all the land owners have objected to the quantum of compensation fixed by the Land Acquisition Officer and the second respondent has also directed reference under Section 18(1) of the

Land Acquisition Act.

6. Referring to the fact that the second respondent himself has made an observation referring the matter under Section 18(1) of the Act, the learned Counsel for the appellant submitted that the writ petition ought to have been allowed. He further submitted that in all other cases, the second respondent has referred the matter before the Civil Court and that the Civil Court has also enhanced the compensation by fixing market value at Rs.5000/- per cent. The learned Counsel for the appellant relied upon the judgment of the Division Bench of this Court in the case of **Steel Authority of India Limited, Salem, vs Salam Urukalai Thittathal Nilam Ilanthor Sangam, and others** reported in (2006) 1 MLJ 252, wherein, this Court has held as follows:

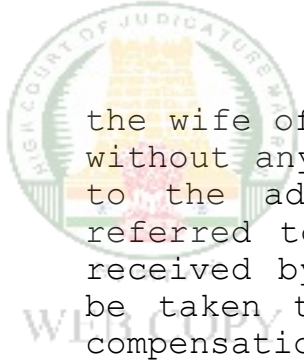
"21. Having regard to this settled legal position laid down by the Apex Court as well as various High Courts it is clear that mere protest or expression of dissatisfaction to the award of compensation without there being anything in writing may be sufficient and that the authority concerned is under an obligation to refer the matter to the court in accordance with Section 18(2) of the Act. In view of this legal position various categories as indicated hereinabove, expressing their protest and filing their applications for reference and some having not even received notices under Section 12(2) of the Act, cannot be denied the right to refer their cases to the Court under Section 18(2) of the Act, and therefore, we do not find any ground to interfere with the judgment of the learned single Judge. Writ appeal is, therefore, dismissed with no order as to costs."

7. The above judgment was also followed and relied upon in several judgments of this Court including another Division Bench of this Court in the case of **Syed Abubacker vs State of Tamil Nadu and others**, reported in 2013 (1) CWC 335. It is seen that the Division Bench of this Court in the case of the **Steel Authority of India Limited, Salem, vs Salam Urukalai Thittathal Nilam Ilanthor Sangam, and others** (cited supra) has followed the judgments of the Honourable Supreme Court and other High Courts approving the principles that the Collector has no right to reject the reference on the ground that no protest was made at the time of acceptance of amount.

8. Leave alone the judgments cited by the learned Counsel for the appellant, this Court is fully satisfied that the Land Acquisition Officer himself has referred the matter under Section 18 (1) of the Land Acquisition Act, after recording a finding that the land owners including the appellant has objected to the quantum of compensation.

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9. The learned Additional Government Pleader submitted that



the wife of the appellant has subsequently received the award amount without any protest. This would have no consequences, having regard to the admitted position and the judicial pronouncements above referred to. The fact that the award amount has subsequently been received by the appellant's wife without making any protest cannot be taken that the appellant has no objection for the quantum of compensation that was fixed by the Land Acquisition Officer, as it was recorded by him in the Award dated 03.04.1997.

10. In view of the above reasons, the Writ Appeal is allowed and the order of the learned Single Judge in W.P.(MD)No.2951 of 2009, dated 05.04.2016 is set aside. The Writ Petition in W.P.(MD) No.2951 of 2009 stands allowed. Consequently, the second respondent is directed to refer the matter before the Civil Court in respect of the appellant's land within a period of two weeks from the date of receipt of a copy of this judgment, so that the Civil Court shall fix the just compensation as provided under the Land Acquisition Act. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Secretary to Government,
State of Tamil Nadu,
Department of Land Administration,
Fort St.George, Chennai - 600 009.
2. The Revenue Divisional Officer, Ramnad.
3. The Special Tahsildar, Land Acquisition, Ramnad.
4. The Executive Engineer and
Administrative Officer,
The Tamil Nadu Housing Board,
Ramanathapuram Housing Unit (TNHB),
Ramanathapuram.

- + 1 CC TO Mr.MOHAMED IBRAHIM ALI, ADVOCATE IN SR No. 95571
- + 1 CC TO Mr.R.JANARTHANAN, ADVOCATE IN SR No. 95344
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 95767

CMR

TE/SV/SAR-1 : 12/12/2018 : 4P/8C

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