



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM : JUSTICE N.SESHASAYEE

Review Application No.132 of 2019
and Contempt Petition No.190 of 2019

Review Application No.132 of 2019 :

1.The Land Acquisition Officer cum
Revenue Divisional Officer
Dharmapuri.

2.The District Collector
Dharmapuri.

..Applicants/Repondents

Vs.

Madhanmohan

..Respondent/Writ Petitioner

Contempt Petition No.190 of 2019

Madhanmohan

..Petitioner/Petitioner

Vs.

Tmt.S.Malarvizhi
District Collector
Dharmapuri.

..Respondent/2nd Respondent

PRAYER in Rev.Apln.No.132 of 2019: Review Application filed under Order 47 Rule 1 of CPC read with 114 CPC., praying to review the order dated 01.03.2018 made in W.P.No.1844/2018, and allow the review application.

PRAYER in Cont.P.No.190 of 2019: Contempt Petition filed under Section 11 of Contempt of Courts Act, to punish the respondent / contemnor for wilful disobedience of the order of this Court in WP.No.1844/2018 dated 01.03.2018, and pass such further or other orders as this Court deems fit and proper on the facts and circumstances of the case.



Prayer in W.P.No.1844/2018:

Writ Petitions under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue writ in the nature of Writ of Mandamus or any other appropriate Writ or direction, directing the 1st respondent to refer the case of the petitioner in respect of the land in Survey Numbers 116/1, 116/2, 117/12, 117/13, 118/8, 118/9, 118/10, 119/7B, 119/9, 120/3A, 127/2, 128/1A, 128/1B, 128/2, 129/1, 130/2, 130/3, 130/4, 131/1, 131/2, 131/4, 132/1, 132/3, 133/1, 133/2, 133/3, 133/5, 137/3, 138/6, 138/8A, 138/10A, 139/1, 139/4, 139/5, 139/6A, 143/1A, 144/1, 144/2, 145/1, 145/2, 146/1, 146/2, 147/1, 147/2, 147/3, 147/4, 148/1, 148/2, 148/3, 148/4, 148/5, 148/6, 148/7, 148/8, 148/9, 148/10, 148/11A, 148/12A2, 149/1, 149/2, 149/3, 149/4, 149/5 in total to an extent of 14.40.5 Hectares of land at Somanahalli Village Dharmapuri Taluk and the land situated in S. Nos. 54/4A2, 54/4B, 56/4D, 56/4F, 56/4G and in total to an extent of 0.63.5 Hectares of Land at Pangunatham Village, Dharmapuri District and in total land to an extent of 15.04.0 Hectares of land, to the Subordinate Court, Dharmapuri under section 18(1) of the Land Acquisition for enhanced compensation based on the petition dated 30.08.2016.

In Rev.Apln. No.132 of 2019 :

For Applicants : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.P.Balathandayutham
Special Government Pleader

For Respondent : Mr.V.Raghavachari
for Mr.S.C.Vishwanth

In Cont.P. No190 of 2019 :

For Petitioner : Mr.S.C.Vishwanth

For Respondent : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.P.Balathandayutham
Special Government Pleader



COMMON ORDER

Both the review application and contempt petition are coming up repeatedly before this Court, and on an earlier occasion, this Court has passed sequence of orders, and for the benefit of continuity, they are periodically extracted in the subsequent orders passed, and accordingly the order dated 03.02.2022 is now extracted :

" Heard the counsel for the writ petitioner/petitioner in Contempt Petition No.190 of 2019 / respondent in Review Petition No.132 of 2019. For appreciating it, and also fixing the context of the order passed by this court on 01.03.2018, it may be appropriate to extract the first paragraph of the order in W.P.No.1844 of 2018. It introduces the controversy brought before this Court. It reads:

"The petitioner claims that he is the owner of a block of land comprised in several survey numbers in Somanahalli Village and Pangunatham Village of Dharmapuri District, ad-measuring total extent of 15.04.0 hectares and they were acquired along with other lands under the provisions of the Land Acquisition Act, 1894 for establishing a substation by the Power Grid Corporation of India. On 31.08.2012, an award was passed and a sum of Rs.42,62,347/- was deposited by the Special Tahsildar before the Sub-Court, Dharmapuri under Section 31(2) of the Land Acquisition Act, 1894 in LAOP.No.6/2012. The petitioner moved a strange application styled as Claim Petition for seeking enhancement of compensation. LAOP was disposed of in the Lok Adalat Case No.484/2015 on 09.12.2015, and a consensus award in the presence of the first respondent was made, wherein an award was passed in favour of the petitioner to receive the amount already deposited by the Land Acquisition Authority under Section 31 of the Act. And on the point of reference sought for enhancing the compensation, it is recorded in the Award of the Lok Adalat that the respondent had no objection in the petition filed by the petitioner to claim compensation under Section 18(1) of the Land Acquisition Act."

2.The order passed by this Court in W.P.1844 of 2018 may also required to be reproduced:



WEB COPY

'5. The award in this case is passed on 31.08.2012 and the so called claim petition was made on 20.03.2013. It is not known whether notice regarding passing of the award was served on the petitioner, or, when exactly the petitioner came to know about the passing of the award. At any rate, the petitioner has declared his intention to seek enhancement of compensation within about 6 ½ months from the date of passing of the award and this, in the circumstances, this be considered unreasonable or excessive. True, the petitioner has approached the wrong forum and adopted a wrong procedure to obtain that which the law grants him. It would have been appreciable if the counsel for the petitioner has spared some concern in the matter and had guided the petitioner properly. However, it may not be appropriate for this Court to deny the petitioner of the benefits that the statute confers on the petitioner solely founded on the lapses such as the one, this Court now witnesses in this case.

6. Accordingly, this petition is disposed of with a direction to the petitioner to present a fresh representation to the District Collector within two weeks from the date of receipt of a copy of this order to seek a reference of the matter to the concerned Civil Court, and the same may be taken on file as if it was filed on 20.03.2013, the date on which the petitioner has approached the Sub Court, Dharmapuri, with a claim petition, and refer the matter in accordance with law. No costs.'

3. The Court believed the version of the petitioner, and attempted to remedy a situation created by the Subordinate Court, in referring the matter to the Lok Adalat. The petitioner claims that on 09-04-2018, a representation as was directed by this Court was given to the District Collector, and as it did not result in a reference under Sec.18 of the L.A. Act, 1894, he has moved an application for initiating contempt in Contempt Petition No:190 of 2019. The respondent on its part has moved a Review Petition to review the order passed by this court in W.P.1844 of 2018.

4. Neither the Review Petition No.132 of 2019 nor the Contempt Petition No.190 of 2019 however, have been admitted yet, but are being heard preliminarily. This hearing exposed this Court to certain startling facts



and has been recorded by this court in its Order dated 20-01-2022.

5. Today, when the matter was taken up, this Court was informed that in the order dated 20.01.2022 an error has crept in that the writ petitioner was referred to as the Review Petitioner, whereas it ought to be the L.A.O./ Revenue Divisional Officer. This error is corrected and accordingly, the corrected version of the order is now provided below for the continuity.

"The respondent in the writ petition herein is seeking review of the order of this Court in W.P. No. 1844 of 2018 dated 01.03.2018.

2. The prayer sought in that case is for a reference under Section 18(1) of Land Acquisition Act, 1894. The fulcrum of the petitioner's contention in the case was that the reference under Section 31(2) of the Land Acquisition Act, 1894 was taken on record in L.A.O.P. No. 6 of 2012 and the matter was referred to Lok Adalat on 09.12.2015. The Lok Adalat has passed the following award:

'Both parties present. Claimant Advocate and A.G.P. Also present. Land Acquisition Officer has along deposited a sum of Rs.42,62,347/- in respect of S.Nos. Mentioned in separate sheet to the total extent of 0.63.5 hectares. The claimant not produce the title deed for S.No. 119/7B with extent 0.08.0 hectares, ie, 1976 sq. and give up the amount of Rs.3686/- and agreed to receive the amount of Rs.42,58,661/-. Respondent has no objection for the petition to claim compensation U/s. 18(1) Land acquisition Act.'

After taking note of the same, this Court has in its order now sought to be reviewed, held:

'5. The award in this case is passed on 31.08.2012 and the so called claim petition was made on 20.03.2013. It is not known whether notice regarding passing of the award was served on the petitioner, or, when exactly the petitioner came to know about the passing of the award. At any rate, the petitioner has declared his intention to seek enhancement of compensation within about 6 ½ months from



WEB COPY

the date of passing of the award and this, in the circumstances, this be considered unreasonable or excessive. True, the petitioner has approached the wrong forum and adopted a wrong procedure to obtain that which the law grants him. It would have been appreciable if the counsel for the petitioner has spared some concern in the matter and had guided the petitioner properly. However, it may not be appropriate for this Court to deny the petitioner of the benefits that the statute confers on the petitioner solely founded on the lapses such as the one, this Court now witnesses in this case.

6. Accordingly, this petition is disposed of with a direction to the petitioner to present a fresh representation to the District Collector within two weeks from the date of receipt of a copy of this order to seek a reference of the matter to the concerned Civil Court, and the same may be taken on file as if it was filed on 20.03.2013, the date on which the petitioner has approached the Sub Court, Dharmapuri, with a claim petition, and refer the matter in accordance with law. No costs.'

3. When the matter came up before this Court on 09.12.2021, an argument was made before this Court that a notice under Section 31 of the Act alone was made and no reference was made under Section 18, etc. This part of what transpired in the Court was not recorded by this Court, but this Court vividly remembers what was argued on that day. Therefore, this Court directed the Registry to make available the entire records in L.A.O.P. No. 6 of 2012.

4. The Sub Court, Dharmapuri, has now made available the records in L.A.O.P. No. 6 of 2012. This Court perused the records of the said case. It is seen the Sub Court, Dharmapuri, has issued a notice in L.A.O.P. No. 6 of 2012 to the petitioner herein, and it is scanned and produced:



WEB COPY

NOTICE TO CLAIMANTS IN LAND ACQUISITION CASES
SUBORDINATE JUDGE'S COURT, DHARMAPURI.

L.A.O.P.No. 06/2012

SUBORDINATE JUDGE'S COURT
DHARMAPURI

Revenue Divisional Officer,
Dharmapuri.

----- Petitioner

/Versus/

Madhan mohan S/o Manohar,
Door No.31/A5,6th Mariyamman Koil Street,
Sanjeevarayanpettai, Salem-6

----- Claimant / Claimants

Whereas the Claimants received the sum of Rs. 42,62,247/- Fixed by the Special Revenue
Divisional Officer, Dharmapuri, Land Acquisition Officer under protest and demanded higher
compensation in respect of Land of extent of in S.No. 1161, Chokkumalai 14-40.5
54/4021525896 0-63.5
Of acquired by L.A.O. 9042 15-04.0

Whereas the L.A.O referred - the matter to - this court under section 18 (1) of L.A.
Act disposal according to law.

Hg. 04.01.2013

You have to - take notice - that you have to appear before this court with your claim 04.1.2013
and documents at 10.00 A.M forenoon on which date the said matter will be heard and determined
in your presence, otherwise the matter will be decided ex parte.

Hg. 04.01.2012

Given under my hand and the seal of this court this the 15 day of .12.2012.



BY ORDER
Correspondence
District Court
Dharmapuri
8-1-13

5.It is seen that pursuant to the notice, this petitioner as claimant has filed his claim petition on 20.03.2013. This Court also finds that the claimant has produced copies of as many as 15 title documents to substantiate his claim under Section 18 of the said Act.



WEB COPY

6.This Court is appalled that if reference had already been made under Section 18 of the Act and why at all an award of the nature referred to in Paragraph No.2 above came to be passed by the Lok Adalat and for receiving the amount in Court deposit, only a cheque - application is required and not any award of Lok Adalat. This Court does not know whether the claimant was paid twice based on the award.

7.Registry is required to ascertain the Judicial Officer, who has referred the matter to Lok Adalat on 09.12.2015. The State is also to take note of the Lok Adalat award passed in Lok Adalat Case No. 484 of 2015 on 09.12.2015 and to make a statement, if any double payment was made to the claimant. It is also required to name the official who has participated in the Lok Adalat.

8.When a reference under Section 18 had already been made, when notices were issued to the claimant by the Court concerned, when the claimant had already entered appearance with the claim statement and also produced a list of 15 title deeds to support his claim, it disturbs the Court that the claimant should approach this Court to make a de novo reference. It is very unfortunate that writ petitions are filed with literally zero responsibility in investigating the facts. This Court intends to record its disappointment strongly in the matter."

6. This is the setting. Today, when the matter was taken up, the learned counsel for writ-petitioner/petitioner in contempt petition No.190 of 2019/respondent in the review petition No.132 of 2019, submitted that the disappointment expressed by this court in paragraph 8 of its Order dated 20.01.2022 notwithstanding, the writ petitioner too is disappointed that not a paisa out of the Rs.42,62,347/- said to have been deposited by the L.A.O in terms of his award. In particular the learned counsel brought to the notice of the Court the following paragraph from the award of the LAO, which reads:

"In view of the urgency in this acquisition the provision of the urgency clause u/s.17(1)(2) of the Land Acquisition Act has been resorted to and as such the land owners and persons interested are entitled to payment of (80%) eighty per centum of the compensation as estimated by the Land



WEB COPY

Acquisition Officer / Sub Collector. The total amount of compensation for the entire extent of lands covered by this acquisition payable was worked out to Rs.1,07,06,552/- (Rupees One Crore, seven lakhs, six thousand, five hundred and fifty two only) out of which eighty per centum of total compensation as above includes land value, Solatium @ 30% and additional amount @ 12% per annum on the market value of the lands covered by this acquisition, calculated for the period from 30.08.2011 (i.e.) the date of publication of the Notification u/s.4(1) of the Act to 20.01.2012 viz. the date of possession taken over by the Land Acquisition Officer / Sub Collector, Dharmapuri represented by the Tahsildar, Dharmapuri."

He continued to emphasis that only Sec.31 notice was served on him by the Sub Court, and not any notice under Sec.18 of the LA Act, 1894, was served.

7. To remind the writ petitioner, any dispute pertaining to the alleged non-payment of the award amount as has been determined by the LAO slightly takes the issue away from the cause of action of the writ petition, and also the scope of the order sought to be reviewed. However, this Court does not intend to hide behind the technicalities when the land-owner complains that he has not been paid yet. Was the compensation amount deposited in the court at any time either before or after the award of the Lok Adalat dated 09-12-2015? This Court therefore orally directed the Registry to collect some information on whether or not any amount has been deposited in the Court by the LAO, and if the same is available and chose to defer signing this order.

8. The Registry has since collected the information and when collated with the original records of LAOP 6 of 2012, the following facts came to light:

- As early as on 17.09.2012, the LAO has deposited a sum of Rs.42,62,347. That it was invested by the Court and is being reinvested by the Sub Court, Dharmapuri twice, and with accrued interest it will get swelled to Rs.82,19,848/- which will become payable on 03-04-2022.
- Now, when the compensation amount was deposited in the Court, for disbursing the same in terms of Sec.31 of the L.A. Act, 1894, the Sub Court has opened LAOP 6/2012. But when it issued a notice



WEB COPY

to the claimant, instead of sending a notice under Sec.31, it issued a notice under Sec.18 of the Land Acquisition Act. This implies that the perception of this court as expressed in its order dated 20-01-2022 is wrong. To make the point clear, no case has yet been taken for enhancing the compensation amount under Sec.18 of the Act and LAOP 6/2012 pertains to Sec.30 claim and not Sec.18 claim.

- That on 20-03-2013, the claimant/writ petitioner has preferred his claim petition only for withdrawing the amount in Court deposit. He indicates in his claim petition that he intends to claim enhancement under Sec.18 of the Act, and that he prays for disbursement of the amount in the Court under protest and without prejudice to his right to claim enhancement of compensation.
- That, there are no other rival claimants to the claimant/writ petitioner in LAOP 6 of 2012, which implies the Court should have recorded his evidence and should have proceeded to accede to the prayer of the claimant. This, for the reasons best known to the Sub Judge concerned, was kept pending for another two and half years till the matter was placed before the Lok Adalat on 09-12-2015. The records further disclose that in the instant case the Lok Adalat has assumed jurisdiction over the 'dispute' in LAOP 6/2012 to pass an award without a formal reference by the Court as mandated by Regulation 10 of the National Legal Services Authority (Lok Adalat) Regulations, 2009, dated 28-08-2019.
- That the Lok Adalat has exercised jurisdiction on a matter in which there was no dispute between the State and the citizen, and proceeded to 'resolve' it.
- Even after passing of the award, the counsel for the claimant before the Sub Court has not chosen to apply for a cheque for the amount already in court-deposit. The amount at the relevant time was in fixed deposit, and it was even allowed to be reinvested on 05-06-2016.

9. Today the petitioner is a worried lot on a matter for there should not have been any. This is partly the creation of the Sub Court, Dharmapuri, but to a



WEB COPY

(c) It is in this backdrop, the writ petitioner appeared before the Lok Adalath and had an award passed on 09.12.2015, leaving the issue of seeking enhancement of compensation under Section 18, open and granting liberty to the writ petitioner to seek it, No Lok Adalat can expand the statutory limit and here the award itself is faulty.

(d) Subsequently, he filed the present writ petition, routing his cause of action only on the Land Acquisition award, but without referring to the claim statement he has filed in L.A.O.P.No.6/2012. This Court in bonafide believes that the same could be true, and directed him to file a fresh representation to the District Collector to consider it. Since, his representation was not considered, the contempt petition was filed by him.

3. The sequences of events indicate that the writ petitioner sets his time table as to when he would seek enhancement of compensation, no matter the limitation which the Land Acquisition Act has set for the purpose. And he is not innocent too as he knew in March 2013 about the passing of the award. When the conduct of the revision petitioner smacks of bonafides, this Court necessarily has to step in to correct its own order.

4. This Court finds every reason to interfere with the order passed by this Court in W.P.No1844 of 2018 in this review application, reviews it, and decides to dismiss the writ petition.

5. In the result, the Review Application is allowed. No costs. Consequently, the Contempt Petition No.190 of 2019 is closed. The Registry is now required to return the entire papers in L.A.O.P.No.6/2012 to Sub Court, Dharmapuri.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Land Acquisition Officer cum
Revenue Divisional Officer
Dharmapuri.



2.The District Collector
Dharmapuri.

Copy to:

- 1.The Sub Judge,
Sub Court,
Dharmapuri.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.
- 3.The Section Officer,
Writ Section,
High Court, Madras.

Review Application No.132 of 2019
and Contempt Petition No.190 of 2019

AD (CO)
PR (17/05/2022)