

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.3431 of 2019

Gururaj
Rep. By his Power of Attorney
Vanniyaraj
Petitioner

...

Vs.

1. The District Collector
Thiruvallur District.
 2. The Special Tahsildar
Ponneri Taluk
Thiruvallur District.
- Respondents

...

Prayer: This Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing to the respondents to refer the petition of the petitioner dated 12.12.2018 to the Civil Court under Section 18 of Land Acquisition Act 1894 for deciding the enhancement of compensation for the land acquired from the petitioner and pass such further orders.

For Petitioner : Mr. T. Saravanan

For Respondents : Mr. C. Thirumaran
Special Government Pleader

O R D E R

The prayer in the Writ Petition is to direct the respondents to refer the petition dated 12.12.2018 of the petitioner, to the Civil Court, under Section 18 of Land Acquisition Act 1894, for deciding enhancement of compensation for the land acquired from the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner is the absolute owner of the subject property, to a larger extent. A portion of the land, to an extent of 0.01.0 acres, belonging to the petitioner was

acquired by the Highways Department, through the 2nd respondent. The 2nd respondent passed Award No.6 of 2009 dated 21.10.2009 to the petitioner Gururaj and referred the same to the Sub Court, Ponneri. Since there was rival dispute between the parties, the matter was taken on file by the Sub Court, Ponneri in LAOP No.57 of 2010. At the time of passing the award, the 2nd respondent fixed the land value as Rs.398.26 per acre and awarded a sum of Rs.39,826/- and fixed the building value as Rs.4,67,931/-. The other statutory benefits under the provisions of the Act was also granted. The said LAOP was disposed on 19.12.2017. Thereafter, the petitioner made a representation on 12.12.2018, under Section 18 of Land Acquisition Act, 1894. But the authorities has not referred the matter to the competent Court for enhancement of compensation. Hence, the present writ petition is filed before this Court.

3. Mr. C. Thirumaran, learned Special Government Pleader takes notice for the respondents and submitted that the said application is not maintainable mainly on the ground that the petitioner has not objected at the time of award enquiry. Since there was a rival claim between the parties, the respondents referred the matter under Sections 30 & 31(2) of the Land Acquisition Act, to the Sub Court, Ponneri, in respect of apportionment of the award amount. By considering the submissions of both the parties, the petition was decided in favour of the petitioner.

4. Admittedly, the petitioner has not raised any objection before the respondents seeking for enhancement of compensation under Section 18 of Land Acquisition Act, 1894. But there was a dispute between the rival claimants and therefore the said dispute was referred to the Sub Court, Ponneri in L.A.O.P. No. 57/2010. After disposal of the said petition on 19.12.2017, the present writ petition is filed on 22.01.2019. There is no provision for referring the matter under Section 18 of the Act, after a delay of more than 10 years. It is useful to extract hereunder, Section 18 of the Land Acquisition Act, 1894:

" Reference to Court.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application

shall be made, -

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

In the present case on hand, the petitioner has not made any objection during award enquiry. Therefore, the petitioner is not entitled to any relief and this Court has no hesitation to dismiss the writ petition.

5. In view of above, the Writ Petition is dismissed, at the stage of admission itself. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector
Thiruvallur District.
2. The Special Tahsildar
Ponneri Taluk
Thiruvallur District.

+1 CC to Mr.T.SAravanan, Advocate sr 9970.
+1 CC to The Govt. Pleader sr 10796.

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KS (CO)
SP(06/03/2019)