

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28219 of 2004

Muthammal

...Petitioner

Vs.

1.The Speccail Tahsildar
(Land Acquisition)
Housing, Ranipet

2.The Executive Engineer
Tamil Nadu Housing Board
Sathuvacheri, Vellore 632 009

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to make reference under Sec.18 of the Land Acquisition Act in respect of Seekarajapuram S.No.61/4, 0.25 cents, 61/5,0.27 cents covered under Award No.5 / 1988 dated 01.09.1988 passed by the 1st respondent.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.M.Elumalai, G.A. For R1

Mr.S.Vanchinathan for R2

O R D E R

The writ petition has been filed by the petitioner under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to make reference under Sec.18 of the Land Acquisition Act in respect of Seekarajapuram S.No.61/4, 0.25 cents, 61/5,0.27 cents covered under Award No.5 / 1988 dated 01.09.1988 passed by the 1st respondent.

2.The learned counsel for the petitioner would submit that the petitioner is the owner of the land in Seekarajapuram S.No.61/4, 0.25 cents, 61/5, 0.27 cents of lands. The said lands were acquired by the 1st respondent for the purpose of housing scheme and after 4(1) notification, for declaration Award enquiry was conducted and award was passed in Award No.5/88 dated 01.09.1988. The petitioner also made objections

and demanded higher compensation at the rate of Rs.2,500/- per cent and agreed to receive the compensation amount under protest. However, the 1st respondent did not refer the matter under Section 18 of the Land Acquisition Act to the Subordinate Court, Vellore to decide the compensation as per rules. Thereafter, the petitioner came to know that similarly placed persons one Angammal filed Writ Petition No.35947 of 2002 and one Amsa filed W.P.No.3149 of 2003. Both the petitions are allowed at the admission stage itself on 09.10.2002 and 05.08.2003. Hence, the petitioner is before this Court, seeking higher compensation on the ground that the writ petitions filed by the similarly placed persons are allowed and the petitioner is also entitled to get the higher compensation under Section 18 of the Land Acquisition Act.

3.The learned Government Advocate would submit that as against the allowed writ petitions, the State preferred appeals in W.A.Nos.3872, 3876 of 2004 before this Court and the said appeals were allowed by this Court on 13.09.2006. The decision of this court is reads as follows:

"5.Insofar as the appeals relating to the award No.5/1988, Mr.Margabandu, the learned counsel appearing for the contesting respondents would further submit that the land acquisition officer in the award itself has stated that he would refer the matter under Section 18 of the Land Acquisition Act. Hence, the contesting respondents did not file such an application.

6.As far as the contention relating to the award No.4 of 1988, it must be stated that the reference in those cases were made by the Special Tahsildar on a written application made by the persons aggrieved in time and in accordance with Section 18 of the Act. The contesting respondents cannot be equated to those individuals and seek for similar direction. Hence, we are not inclined to accept the submission made by the learned counsel appearing for the contesting respondents.

7.A perusal of the award shows that the land acquisition officer has made a reference in the award, namely, "Reference under Section 18 of the Land Acquisition Act will be sent to the Principal Subordinate Judge, North Arcot, Vellore to decide the enhanced compensation as per rules." It is true that by the above, the Special Tahsildar, Land Acquisition had indicated that a reference under Section 18 would be sent to the Civil Court for a decision as to enhancement of compensation as per rules. The said observation was made as early as on 30.06.1988,

14.09.1988 and 01.08.1988. Though it is claimed by the contesting respondents that they are under the bonafide impression that the Land Acquisition Officer would come forward to refer the matter, in our opinion, such claim cannot be accepted for more than one reason that that the observation was made in the year 1988 and the contesting respondents did not take any step or not even bothered to verify as to whether the reference has been made or not, till they approached this Court in the year 2002 i.e. after a period of nearly 14 years.

8. We are told that the pursuant to the award, the lands were taken possession and handed over to the Tamil Nadu Housing Board and the scheme was also implemented. The contesting respondents are not diligent in prosecuting their claims and lapses on their part have not been properly explained. Once the scheme is implemented and third parties interested have come, if the reference is ordered after a lapse of 14 years, the final cost arriving and collected by the Housing Board will be accepted and the allottees were not parties before this Court will be made to bear the difference in cost for no fault of them and in such circumstances, it would not be proper for this Court to direct the reference for the fault, the contesting respondents, in not prosecuting their case within a reasonable period.

9. In view of the lapses on the part of the contesting respondents, we are not inclined to consider the above submissions and that the writ petitions are ought to have been rejected on the ground of laches. Accordingly, the writ appeals are allowed and the impugned orders in the writ petitions are set aside. No costs.

4. In view of the above decision held by this Court, nothing survives in this writ petition for further adjudication. Accordingly, the writ petition stands closed. No costs. Consequently, connected miscellaneous petition if any is closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To.

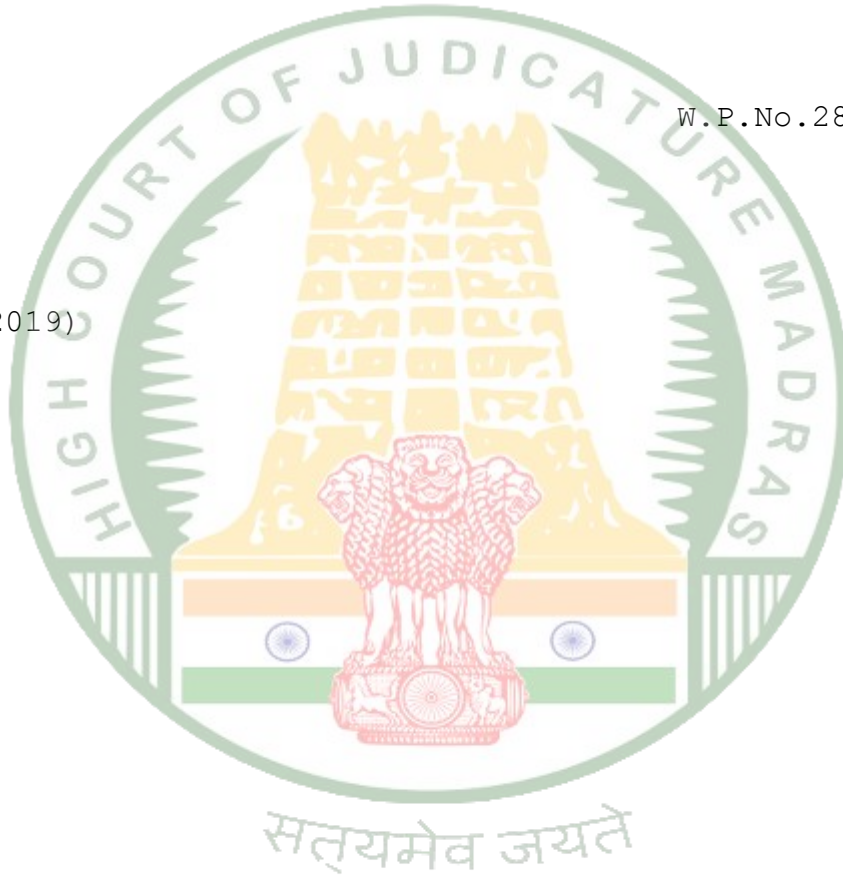
1.The Specail Tahsildar
(Land Acquisition)
Housing, Ranipet

2.The Executive Engineer
Tamil Nadu Housing Board
Sathuvacheri, Vellore 632 009

+1 CC to Govt. Pleader sr 51734.

W.P.No.28219 of 2004

JP(CO)
SP(22/07/2019)



WEB COPY