

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2019

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.5846 of 2017
and WMP.No. 6843 of 2017

T. Girija Ammal

.. Petitioner

-vs-

1. The District Collector,
Vellore District.
 2. The Tamil Nadu State Transport Corporation,
(Villupuram -II), Vellore Division,
Rangapuram, Vellore,
Rep.by its General Manager.
 3. The Executive Engineer & Administrative Officer,
Vellore Housing Unit,
Tamil Nadu Housing Board,
Vellore - 9.
- .. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings dated 22.10.2016 in Na.Ka.T1/20428/2014 passed by the 1st respondents quash the same and direct the respondents to receive Rs.29,46,484/- and renew the 'C' form license.

For Petitioner : Mr.I.Abrar Md Abdullah

For Respondents: Ms.A. Sri Jayanthi
Special Government Pleader [R1]

Ms.S.Rajini Ramadoss [R2]

Mr.S.Vanjinathan [R3]

ORDER

Heard Mr.I.Abrar Md Abdullah, learned counsel for the petitioner, Ms.A.Sri Jayanthi, learned Special Government Pleader for first respondent, Ms.S.Rajini Ramadoss, learned counsel for second respondent and Mr.S.Vanjinathan, learned counsel for third respondent.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. This writ petition has been filed challenging the proceedings of the first respondent dated 22.10.2016 by which the first respondent has refused the renewal of C form license in respect of the cinema theatre owned by the petitioner on the ground that the petitioner is yet to remit the interest amount at the rate of 15% per annum in respect of the excess payment of compensation paid to the petitioner on account of the land acquisition proceedings.

4. The land owned by the petitioner was acquired for public purpose for two entities namely the Housing Board and the Tamil Nadu State Transport Corporation. The compensation payable to the petitioner was fixed by the Reference Court at Rs.5,820/- per cent. On appeal by the Revenue Divisional Officer and the State Transport Corporation before the Hon'ble Division Bench of this Court in AS.No. 629 of 2006, the compensation payable was reduced to Rs.3,714.72/- per cent. Consequently, the petitioner had to repay the excess amount paid to them as compensation cost because by then the petitioner was permitted to withdraw the amount deposited before the Reference Court.

5. It is not disputed before this Court that the petitioner has repaid a sum of Rs.29,46,500/- by bankers cheque dated 05.04.2016 in favour of the Tamil Nadu Housing Board. After remitting the said amount, the petitioner approached this Court and filed W.P.No.15198 of 2016 praying for a direction to direct the first respondent to dispose of the representation dated 06.04.2016 for the purpose of renewal of C form license. The writ petition was disposed of by order dated 25.04.2016 directing the representation to be considered. Pursuant to which, the impugned order has been passed.

6. Two issues were arisen, firstly whether the petitioner is liable to pay the interest. In the prima facie opinion of this Court the liability cannot be denied because the petitioner has been paid compensation with interest in terms of the decree passed by the Division Bench in its judgment dated 24.02.2012. However, it needs to be ascertained as to whether the

differently rate has been fixed by the Division Bench based on the date within in which the compensation is paid.

7. Though it is stated that a separate appeal was not preferred by the Tamil Nadu Housing Board against the judgment by the Reference Court, it is seen that one of the appellants is a Revenue Divisional Officer, who is the land acquisition officer. However, since facts are not clear, this Court does not wish to make any positive observations in this regard. However, considering the fact that the interest payable by the petitioner should be intimated to the petitioner by furnishing a calculation clearly indicating what amount would be paid. Without such particulars, a demand cannot be sustained.

8. However in the interregnum, what is to be done for the petitioner is grant of C form license. It has been brought on record even in the order passed in the earlier writ petition in W.P.No15198 of 2016 that the petitioner had paid a sum of Rs.29,46,500/- on 05.04.2016 itself. This according to the petitioner is the excess amount of compensation, which was paid. If the entire excess amount of compensation has been paid by the petitioner then the first respondent can consider the petitioner's application for grant of C form license subject to payment of interest, which shall be arrived at after giving an opportunity to the petitioner. However, if there is no deposition regarding payment in excess amount the same shall be made good by the petitioner, so as to enable C form license to be considered and the indulgence granted is only with regard to the interest, which is payable by the petitioner on the excess compensation. If such observations/directions are issued not only the petitioner rights would be prejudiced but the interest of revenue also prejudiced. More so, because there is already an order of attachment on the petitioner's theatre which shall continue till the entire amount cleared by the petitioner.

9. In the light of the above, the writ petition is partly allowed and the first respondent is directed to ascertain as to whether the entire amount of excess compensation obtained by the petitioner has been repaid, which according to the petitioner is Rs.29,46,500/- if the same has been paid, then the first respondent shall consider the application for grant of C-Form license in accordance with the relevant statute. However, if there is no deposition the same shall be directed to be made good by the petitioner and after the entire excess compensation paid by the petitioner, the application for renewal of C-form license can be considered in accordance with the relevant provisions. With regard to payment of interest, the first respondent is directed to furnish full particulars as to what is the interest that is liable to be paid by the petitioner and on

receipt of the payment, it is for the petitioner to file their reply/objections after which the first respondent shall pass appropriate order on merits and in accordance with law. Till the completion of all proceedings and recovery of the entire cost amount paid with interest, the attachment of the petitioner's cinema theatre shall continue. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Vellore District.
2. The Tamil Nadu State Transport Corporation,
(Villupuram -II), Vellore Division,
Rangapuram, Vellore,
Rep.by its General Manager.
3. The Executive Engineer & Administrative Officer,
Vellore Housing Unit,
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+1cc to the Government Pleader SR.103679

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PPA(CO)
CB(07/02/2020)

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