

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.2995 of 2017

N.Subbiah

... Petitioner

Vs

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

2.The Land Acquisition and Special Tahsildar,
(LA) Unit-VI,
O.R.R.Project, Phase-II,
C.M.D.A., Coimbedu,
Chennai-600 092.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the second respondent dated 02.11.2016 in his Na.Ka.No.76/2005 A1/Alagu6 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.67/30 and 69/25 measuring 4 cents situated in Attanthangal, (Block-2) Ponneri Taluk and Thiruvallur District as per the Award No.1/2010 dated 15.07.2010 to the Sub Court, Ponneri.

For Petitioner : Mr.M.MD.Ibrahim Ali
For Respondents : Mr.M.Elumalai,
Government Advocate

ORDER

The petitioner has come to this Court challenging the impugned order dated 02.11.2016 passed by the Land Acquisition and Special Tahsildar, the second respondent herein and seeking a direction to the second respondent to send the matter for

reference under Section-18 of the Act for the lands acquired in S.Nos.67/30 and 69/25 measuring to an extent of 4 cents situated at Attanthangal, (Block-2) Ponneri Taluk and Thiruvallur District as per the Award No.1/2010 dated 15.07.2010 to the Sub Court, Ponneri.

2.Learned counsel appearing for the petitioner would submit that the petitioner purchased the above property by virtue of the Sale Deed dated 27.01.2014. While so, the first respondent has issued a Notification under Section 6 of the Land Acquisition Act (hereinafter referred to as 'the Act') in respect of the above said land for the purpose of formation of outer Ring Road by the C.M.D.A. Since no notices under Sections 5(A), 9(3) or 12(2) of the said Act were served on the petitioner, he did not have any opportunity to submit his objection for the acquisition of the lands. In the meanwhile, the second respondent has passed an Award No.1/2010 dated 15.07.2010 in respect of the Survey Nos.67/30 and 69/25 and a copy of the same has also been not served to the petitioner. After coming to know about the passing of the Award from the relatives, the petitioner approached the second respondent by way of an Application on 20.10.2016 requesting him to send the matter for reference under Section 18 of the Land Acquisition Act for enhancement of compensation. The second respondent has also disbursed the amount on 30.09.2016 and the petitioner has also received the same. But, the second respondent, till date, has not referred the matter under Section 18 of the Act for reference to the Sub Court for getting enhanced compensation. Learned counsel appearing for the petitioner would further submit that the petitioner has got the knowledge of acquisition of the land only after he purchased the property in the year 2014 and therefore, the time limit fixed under Section 18(2) of the Act cannot be put against the petitioner. When the petitioner has requested to refer the matter to the Sub Court for enhancement of compensation, the second respondent has passed the impugned order refusing to send the matter. Therefore, the refusal made in the impugned order is liable to be set aside.

3.A counter affidavit has been filed by the respondents. Mr.M.Elumalai, learned Government Advocate appearing for the respondents would submit that the reasoning given in the impugned order refusing to refer the matter to the Sub Court for enhancement of compensation is in order and the same does not warrant any interference. The reason being that when the Award was passed on 15.07.2010 by the second respondent as per Section 18(2) of the Act, the land owner should have made a request for referring the matter to the Sub Court for enhancement of

compensation 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. As the petitioner, admittedly purchased the land under the sale deed dated 27.01.2014, the stand taken by the petitioner that he came to know about the passing of the Award only thereafter is wholly mis-conceived.

4.This Court, fully accepting the reasoning given in the impugned order, is inclined to accept the submission made by the learned Government Advocate appearing for the respondents. It is relevant to extract Section 18(2) of the said Act as under:

'18(2)The application shall state -
(a)the grounds on which the objection to the award is taken; and
(b)if it relates to the enhancement of compensation, the exact amount required to be enhanced:
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.'

5.A perusal of the above would show that the time limit given under Section 18(2) of the said Act stood expired by the time the petitioner has purchased the property on 27.01.2014. When the Award was passed on 15.07.2010, the petitioner ought to have known about the passing of the Award. As his request is time barred, this Court is not inclined to entertain the writ petition and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

To

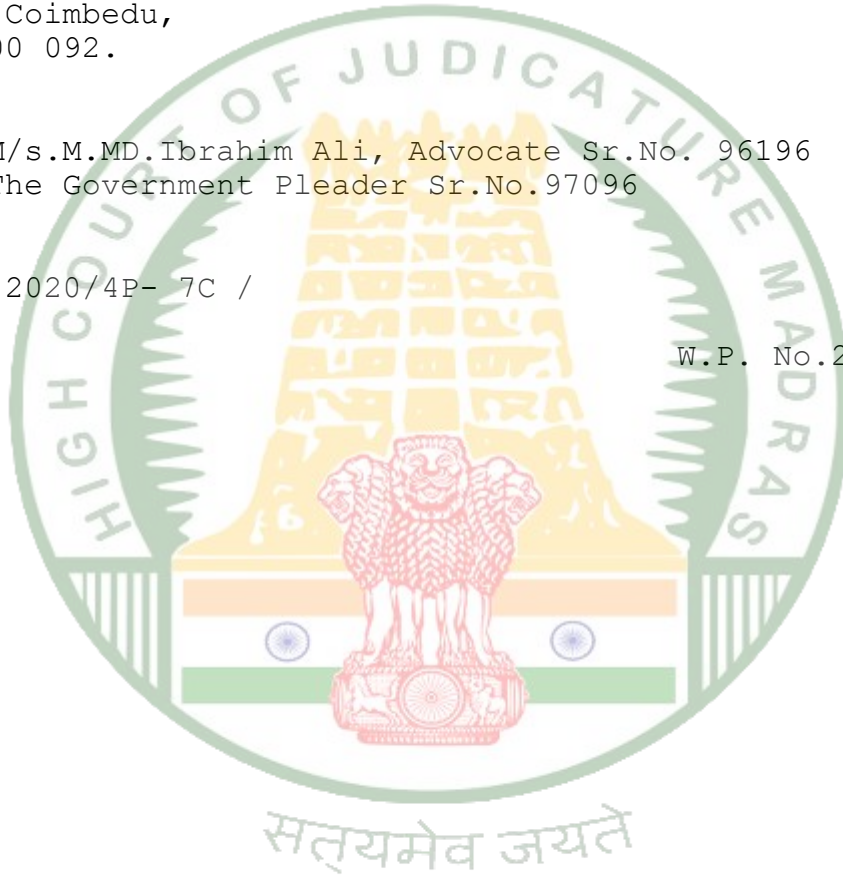
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+1 cc to M/s.M.MD.Ibrahim Ali, Advocate Sr.No. 96196
+1 cc to The Government Pleader Sr.No.97096

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