

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.28104 of 2018

1.Mohana Jagadeesan

2.Senthil Jagadeesan
rep.by Power of Attorney Agent
Mohana Jagadeesan

3.T.Chitty Babu

.. Petitioners

/versus/

1.The District Collector,
Collectorate, Kancheepuram.

2.The Special Deputy Tahsildar,
IT Corridor Expressway Scheme,
Tambaram.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in Na.Ka.No.16832/08/F1 dated 26.08.2018 on the file of the 1st respondent, quash the same.

For Petitioners :Mr.D.Shivakumaran

For Respondents :Mr.D.Raja,

Additional Government Pleader

ORDER

The prayer in the writ petition is to issue a Writ of Certiorari calling for the records in Na.Ka.No.16832/08/F1, dated 26.08.2018 on the file of the 1st respondent and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The grievance of the petitioners is that the petitioners being the erstwhile land owners, which was acquired for laying of six lane highways. The compensation awarded to them was not

adequate and therefore, a request to the District Collector was made for referring the matter to the Tribunal for enhancement of compensation. The District Collector has passed the impugned order dated 26.08.2018 stating that the request for reference is beyond six days and therefore, under Section 20 of the Tamil Nadu Highways Act, 2001, it is barred by limitation. Hence, it cannot be referred.

4. The case of the petitioners is that the award was passed on 15.09.2011 and the same was communicated to the petitioners belatedly. The award amount was received by the petitioners under protest. Thereafter, attempts were made by the petitioners to get the award copy so that they can prefer petition for reference. Since the respondents have not furnished the full text of the award copy, they were forced to file writ petition and pursuant to the order passed in the writ petitions, the first respondent has furnished the full text of the award on 15.07.2014 and thereafter, the petition for reference was submitted to the Collector on 12.09.2014 within 60 days from the date of receipt of the award copy. Despite presenting the application for reference, the first respondent has declined to refer the matter for adjudication before the Tribunal citing Section 20 of the Tamil Nadu Highways Act, 2001.

5. The contention of the petitioners is that the date of receipt of the award means the full award copy and not truncate award copy. Further, when the petitioners even at the time of receiving the award amount, received it only under protest stating about inadequacy of the compensation. The District Collector, who is bound to refer the matter for adjudication has failed.

6. In the counter, the respondents have stated in paras 6 and 12, which reads as under:

"6. I humbly submit that on passing of the award by intimation dated 15.09.2011 signed on 31.10.2011 was sent to the petitioners to come and appear before the officer concerned with relevant documents to receive the compensation. The petitioners on receipt of the said notice appeared on 11.09.2012 and gave a statement claiming compensation after deducting the tax towards income tax. Thereafter, the compensation amount was disposed to the petitioners on 06.12.2012 and 11.12.2012. The petitioners while receiving the cheque towards the compensation amount, received the same under protest without prejudice to seeking higher compensation for the lands. However, the petitioners either on giving statement i.e

11.09.2012 or on the date of receipt of the cheques towards the compensation, did not file any application, seeking the reference for enhancement of compensation.

12. I humbly submit that though the notices with regard to the intimation of the passing of the award as early as on 15.09.2011, non-furnishing of the full award proceedings will not give any further time limit to make application, seeking for reference for enhancement of compensation."

7. From the counter, it is clear that the award dated 15.09.2011 was signed by the Collector after 45 days on 31.10.2011 and the petitioners were intimated for receiving the award amount nearly after one year on 11.09.2012. The petitioners have appeared before the respondents and received the compensation on 06.12.2012 and 11.12.2012 under protest, without prejudice to seeking higher compensation for their land.

8. While so, the intention of the petitioners that the award of compensation fixed was not adequate was made known to the first respondent on the date when he disbursed the compensation amount. Further, in the counter, the respondents candidly admit that the non-furnishing of full award proceedings is not required for preferring the application for reference under Section 20 of the Tamil Nadu Highways Act, 2001 and it will not extend the limitation prescribed under Section 20 of the Tamil Nadu Highways Act, 2001.

9. The understanding of the Collector in this regard is miserably very poor and having put to notice that the compensation awarded to them is not adequate and received the same under protest, in all fairness, the Collector ought to have referred the matter for adjudication, which he has failed to do so. The respondents have not served the award copy to the petitioners at free of cost, which is mandate under the statute. Only after approaching this Court, the respondents have furnished the full text of the award copy to the petitioners. That apart, when the petitioners have submitted their representations for enhancement of compensation and interest for belated payment, the first respondent has rejected the same on a frivolous ground that it is barred by limitation. Without taking into consideration that he has not complied the statutory obligation at all stages.

10. Therefore, the order of the first respondent dated 27.08.2018 is hereby quashed. The first respondent is hereby directed to refer the matter to the Tribunal, within a period of four weeks from the date of receipt of a copy of this order.

There shall not be any further delay on the part of the respondents in referring the matter.

11. The attitude of the first respondent display indifference to the statute and to the directions of this Court in the earlier writ petition. If this sort of indifference is shown by bureaucrats, the governance of the State will soon go to nadir. This Court hopes that at least in future the respondents will show some empathy on the persons who are deprived of their lands to forcible acquisition.

12. With the above observations, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Collectorate, Kancheepuram.

2.The Special Deputy Tahsildar,
IT Corridar Expressway Scheme,
Tambaram.

+1 cc to M/s.D.Shivakumar,Advocate Sr.No. 68305
+1 cc to The Government Pleader Sr.No.68441

AKM/23.09.19/4P-5C /

सत्यमेव जयते

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