

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.01.2019

CORAM:
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P.No.29878 of 2018
and
W.M.P.No.34882 of 2018

N.Jayakumar

... Petitioner

Vs.

1.The District Collector,
Tiruppur.

2.The Land Acquisition Officer/
District Revenue Officer,
Tiruppur.

3.The Tahsildar,
Tiruppur South,
Tiruppur.

4.The Divisional Engineer,
Highways Department,
Tiruppur.

.... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the proceedings in Na.Ka.20514/2015/Oo.1 dated 17.10.2018 culminating in award No.04/2018 and quash the same and consequently direct the respondents to pay compensation to the petitioner as per the award No.04/2018 in respect of land situate in T.S.No.88, Door Nos.32 & 33, Kamaraj Road, Tiruppur.

For Petitioner : Mr.P.Valliappan

For Respondents: Mr.C.Thirumaran
Special Government Pleader.

O R D E R

The writ petition has been filed challenging the award passed by the second respondent Land Acquisition Officer and seeking a direction to pay compensation to the petitioner in respect of land situate in T.S.No.88, Door Nos.32 & 33, Kamaraj Road, Tiruppur.

2. The grievance of the petitioner is that the petitioner is the owner of the property in respect of T.S.Nos.87 and 88. Though the petitioner has purchased both the properties, notice under Section 15(2) as well as under Section 15(1) of the Tamil Nadu Highways Act 2001, has been issued in the name of vendor of the petitioner and the petitioner alone appeared for enquiry and raised objection. While passing the award, the second respondent has passed award only in respect of T.S.No.87 and in respect of T.S.No.88, no award has been passed. In the above circumstances, the present writ petition has been filed challenging that award seeking a consequential direction to the respondents to pass an award in respect of T.S.No.88 also.

3. The second respondent filed a counter affidavit stating that so far as the T.S.No.87 is concerned, the petitioner is the owner of the property and in respect of T.S.No.88, it has been classified as Road Poramboke and necessary entry has also made in the Town Survey Register and hence, the petitioner is not entitled for any compensation in respect of T.S.No.88.

4. The learned counsel appearing for the petitioner submitted that after purchase, the petitioner has approached the concerned Zonal Deputy Tahsildhar for transferring the Patta and in and by his proceedings in RTR.No.183/2018/A1 dated 01.09.2018, patta has also been granted in favour of the petitioner in respect of T.S.No.88. After issuing the patta in the name of the petitioner, now it is not open to the respondents to claim the property as classified as Road Poramboke denying the award.

5. Per contra, the learned Special Government Pleader appearing for the respondents submitted that the order granting patta in favour of the petitioner was subsequently cancelled by the Tahsildar, Tiruppur (South) in and by his proceedings in Na.Ka.No.6826/2014/A2 dated 12.10.2018 even before passing the award and it has been re-classified as "Road Poramboke" and he has also produced a copy of the Town Survey Register. Hence, the petitioner cannot claim any award for the survey number in T.S.No.88.

6. The learned counsel appearing for the petitioner further submitted that the order cancelling the patta has not brought to the notice of the petitioner. He also submitted that the copy of the order was not served to the petitioner enabling him to challenge the same.

7. Considering the fact that already the patta in respect of T.S.No.88 granted in favour of the petitioner has been cancelled and the same was re-classified as Road Poramboke, and as on date, the petitioner cannot claim any right over the property and also claim compensation. However, if the petitioner

has any grievance over the order cancelling the patta, it is always open to him to challenge the same in the manner known to law. After establishing the right over the property, it is always open to the petitioner to approach the second respondent seeking compensation. The Zonal Deputy Tahsildar is directed to serve the copy of the order cancellation of patta, to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The District Collector,
Tiruppur.
- 2.The Land Acquisition Officer/
District Revenue Officer,
Tiruppur.
- 3.The Tahsildar,
Tiruppur South,
Tiruppur.
- 4.The Divisional Engineer,
Highways Department,
Tiruppur.
- 5.The Zonal Deputy Tahsildar,
Tiruppur.

+2ccs to Mr.P.Valliappan, Advocate, S.R.No.2545

+1cc to the Government Pleader, S.R.No.2735

W.P.No.29878 of 2018

RR(CO)

rrs 07/03/2019