

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.33210 of 2018

J.Paulraj

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by Secretary to Government
Industires Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector,
Kancheepuram District,
Kancheepuram - 631 501.
- 3.The Special Tahsildar,
Land Acquisition,
SIPCOT Oragadam Expansion Scheme,
Unit - III, Sriperumpudhur,
39-A, C.S.I. School Lane, Nehru Street,
Sriperumpudhur - 602 105.

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified Mandamus, calling for the records of the second respondent in ROC.No.13/2007/O.V.T./Alagu-3 and to quash the Order dated 06.11.2015 made therein and consequently to direct the second respondent to accept the representation of the petitioner dated 13.09.2013 and to refer to the Civil Court under Section 8 of the Tamil Nadu Acquisition of Lands for Industrial purposes Act (Tamil Nadu Act 10 of 1999) to determine the compensation for the house site of the petitioner, measuring 2,880 sq.ft. in Old Survey No.91/18 part and New Survey No.91/2A1A, Oragadam Village, acquired for the SIPCOT Oragadam Expansion Scheme Unit III.

For Petitioner	: Mr.T.M.Hariharan
For Respondents	: Mr.C.Thirumaran for R-1 to R-3 Special Government Pleader

O R D E R

This writ petition has been filed challenging the order passed by the second respondent, dated 06.11.2015, refusing to refer the Award under Section 8 of the Tamil Nadu Acquisition of Lands for Industrial purposes Act (Tamil Nadu Act 10 of 1999).

2.The grievance of the petitioner is that, the petitioner's lands were acquired by the respondents 2 and 3 for the purpose of formation of SIPCOT at Oragadam, Sriperimpudhur Taluk. After issuing notification under Section 3(1) of the Tamil Nadu Land Acquisition of Lands for Industrial purposes Act, (hereinafter referred as 'the Act'), no award has been passed. Hence, the petitioner filed a Writ Petition in W.P.No.19345 of 2011, before this Court, seeking direction. This Court, by order dated 23.04.2013, directed the second respondent/District Collector to pass award. Thereafter, the award came to be passed on 29.08.2013, thereby the District Collector only fixed the value of the land at Rs.3,00,000/-. Not being satisfied with the same, the petitioner filed an application under Section 8 of the Land Acquisition Act seeking reference for determining the quantum of compensation. But, the second respondent, after receiving the said application, did not pass any order. Hence, the petitioner filed the Writ Petition in W.P.No.11339 of 2014, seeking a direction to the second respondent to refer to the award under Section 8 of the Land Acquisition Act. This Court, by order dated 05.12.2014, directed the second respondent to consider the representation of the petitioner dated 13.09.2013 within a period of 6 weeks from the date of receipt of that order. But, without considering the order of this Court, by impugned order dated 06.11.2015, the second respondent/District Collector rejected the application filed by the petitioner on the ground that the application was filed by the petitioner beyond 60 days. Now, Challenging the above said impugned order, the present writ petition is filed.

3.Heard the learned counsel appearing for the petitioner and also the learned counsel appearing for the respondents and perused the materials available on record.

4.On perusal of the records, it is seen that this Court, by order dated 23.04.2013, directed the second respondent to pass award under Section 7(3) of the Act, thereafter the award came to be passed on 29.08.2013. Subsequently, within a period of 60 days, the petitioner made a representation to the second respondent on 13.09.2013, and it was received by the second respondent on 16.09.2013. Now, by impugned order dated 06.11.2015, the second respondent rejected the petitioner's claim on the ground of limitation.

5. Admittedly, the award was passed on 29.08.2013 thereafter within the stipulated period of 60 days, the petitioner has sent the representation under Section 8 of the Act on 16.09.2013 and it was received by the respondent on 16.09.2013, and therefore, the representation is well within the time and the order of the second respondent dated 06.11.2015 cannot be sustained and the same is liable to be set aside.

6. Accordingly, the impugned order dated 06.11.2015 passed by the second respondent/District Collector is hereby set aside. The second respondent is directed to send the reference under Section 8 of the Land Acquisition Act to the competent authority within a period of two weeks from the date of receipt of a copy of this order. On such reference, It is open to the petitioner to raise any objection regarding the value fixed by the second respondent.

7. In view of the above, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rrg

To

1. The Secretary to Government
Government of Tamil Nadu, Industries Department,
Fort St. George, Chennai - 600 009.
2. The District Collector,
Kancheepuram District, Kancheepuram - 631 501.
3. The Special Tahsildar, Land Acquisition,
SIPCOT Oragadam Expansion Scheme,
Unit - III, Sriperumpudhur,
39-A, C.S.I. School Lane, Nehru Street,
Sriperumpudhur - 602 105.

+1cc to Mr.T.M.Hariharan, Advocate, S.R.No.4872

+1cc to the Government Pleader, S.R.No.5030

W.P.No.33210 of 2018

VD(CO)
CS/07/03/2019