

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 10.07.2019****CORAM:****THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR****W.P. (MD)No.14267 of 2019****WEB COPY**

1.M.Ayyapillai Thevar
2.A.Sivakumar

... Petitioners

Vs.

1.The District Collector,
Dindigul District.

2.The Special Tahsildar (Land Acquisition) and
Land Acquisition Officer,
Periyar Vaigai Improvement Scheme,
Nilakottai Taluk,
Dindigul District.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent or their subordinates to make a reference under Section 18 of the Land Acquisition Act, 1894, as amended therein, to the competent Civil Court with respect to a land comprised in Survey No.254/2 to an extent of 1.79.0 hectare or 443 cents situated in Viruveedu Village, Nilakottai Taluk, Dindigul District and within a time frame that may be prescribed by this Court.

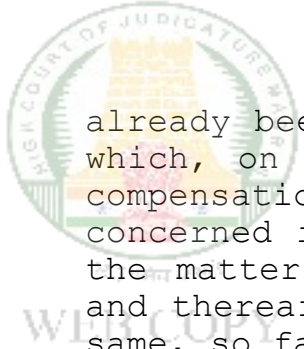
For Petitioner : Mr.K.Saravana Kumar
For Respondents : Mr.M.Rajarajan G.A.

ORDER

The prayer in the Writ petition is for a Writ of Mandamus, directing the respondent or their subordinates to make a reference under Section 18 of the Land Acquisition Act, 1894, to the competent Civil Court with respect to the land comprised in Survey No.254/2 to an extent of 1.79.0 hectare or 443 cents situated at Viruveedu Village, Nilakottai Taluk, Dindigul District within a time frame.

2.Heard Mr.K.Saravana Kumar, learned counsel for the petitioner and Mr.M.Rajarajan, learned Government Advocate appearing for the respondents.

3.The petitioner's land has already been acquired under the Land Acquisition Act, and an award to that effect in Award No.2 of 2004 was passed by the Special Tahsildar, Nilakottai, ie., the 2nd respondent, as early as on 22.09.2004 and the award notice has



already been received by the petitioner on 01.10.2004. Pursuant to which, on 09.11.2004, the petitioner has made an objection as the compensation fixed and award passed by the Special Tahsildar concerned is not adequate. Accordingly, he made a request to refer the matter to the competent Court for enhancement of compensation and thereafter, several such representations were made. Despite the same, so far the same has not been referred to the competent Court.

4. In this regard, the learned counsel appearing for the petitioner has relied upon a Division Bench decision of this Court made in **Syed Abubacker Vs. State of Tamil Nadu reported in 2013(1) CWC 335** and would submit that, if at all any award passed by the land acquisition authority, and the award amount is received by the land owner under protest and subsequently, sought for reference, the same shall be made by the authorities concerned. The relevant portion of the said judgment relied upon by the learned counsel for the petitioner reads thus -

"8. As regards making a request to make a reference under Section 18(2) of the Land Acquisition Act, 1894, referring to the decisions of the Hon'ble Apex Court and of various High Courts, a Division Bench of this Court in *Steel Authority of India Ltd., Salem Steel Plant V. Salem Urukalai Thittathal Nilam Illathor Sangam, Salem and others*, 2006(1) MLJ 252 (DB), categorically held that for making a reference under Section 18(2) of the Land Acquisition Act, 1894, mere protest, expression of dissatisfaction of the award amount without there being anything in writing is sufficient and the authorities are under obligation to refer the matter to the Court under Section 18(2) of the Act.

9. In this case, a perusal of the materials on record shows that the Appellant was continuously urging for making such reference. It is evident from his continuous representations made in December 2004, 13.11.2016, 28.03.2007 and 16.11.2007 that he made protest at the time of receiving the amount. Further, it is sheer common sense that in no case the land owner will be satisfied with the compensation awarded by the Land Acquisition Officer. In the facts and circumstances of this case, the decision cited squarely applies to this case.

10. In the result, this Writ Appeal is allowed. The order of the Writ Court is set aside. The 2nd respondent, namely, the Revenue Divisional Officer, Ramanathapuram, will make a reference under Section 18(2) of the Land Acquisition Act, 1894 of the award passed under the Act with respect to the Appellant's land acquired under the Act to the concerned Tribunal. It is made clear that exercise shall be completed within eight



weeks from the date of receipt of a copy of this judgment. No costs."

5. In the given context, by relying upon the said decision, the learned counsel appearing for the petitioner would submit that, though such a request having been made by the petitioner long back and subsequently, several such requests have been made, no reference, so far has been made by the respondents to the competent Civil Court for deciding the issue of enhancement of compensation.

6. The learned Government Advocate appearing for the respondent would submit that, for the land acquired from the petitioner, a sum of Rs.1,66,959/- has already been paid and the same has been received, of course, under protest by the petitioner. If at all the petitioner has got any grievance over the quantum fixed by the respondents, and accordingly, award passed where some of the items like, standing trees were not taken into account, according to the petitioner, the same shall be referred to the competent civil Court for enhancement of compensation and therefore, in this regard, the respondents would do the necessity to refer the matter to the competent civil Court for adjudication of enhancement of compensation.

7. Having regard to the said submissions made by both sides by taking into account the factual matrix of this case, this Court is inclined to dispose of this Writ petition with the following directions:

That the respondent, especially, the first respondent is hereby directed to consider the request made by the petitioner dated 09.11.2004 and subsequent representations and refer the matter to the competent civil Court under Section 18 of the Land Acquisition Act, within a period of 4 weeks from the date of receipt of a copy of this order.

The Writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

nbj



To

1.The District Collector,
Dindigul District.

2.The Special Tahsildar (Land Acquisition) and
Land Acquisition Officer,
Periyar Vaigai Improvement Scheme,
Nilakottai Taluk,
Dindigul District.

+1 CC to M/s.K.SARAVANA KUMAR, Advocate (SR-74801[F] dated
11/07/2019)

W.P. (MD) No.14267 of 2019
10.07.2019

KK/SAR/30.08.2019/4P-4C/