



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.08.2019**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.15609 of 2019

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... Petitioner

-Vs-

1.The District Collector Madurai,
Office of the District Collectorate,
N.K.No.27/2009 Land Acquisition,
Airport Acquisition Extension Wing-1,
Madurai.

2.Special Tahsildar,
(Land Acquisition)
N.K.No.27/2009/L.A.
Airport Acquisition Extension Wing-1,
Madurai-625 020.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Na.Ka.No.31/2018 Ne.ae. Dated 25.04.2019 regarding Land Acquisition-Madurai District-Airport Extension Iyanpappakudi Village, Land Acquisition property, House site plot of Survey No.455 situated in Airport Road, Wing-3 of Avaniyapuram Town Panchayat, Madurai and to quash the same as illegal, contrary to law and invalid and consequently, direct the first respondent to pass an award fixing the compensation and paying the petitioner's compensation to land pertaining to land and building in No.455/2A1A, Door No.6, 0.78.50 Ares part situated in the Airport Road, Wing-3, Avaniyapuram Town Panchayat, Madurai.

For Petitioner : Mr.T.R.Subramanian

For Respondents : Mrs.Vaishnavi

Government Advocate

ORDER

The prayer sought for in this writ petition is that, to quash the proceeding in Na.Ka.No.31/2018 Ne.ae., Dated 25.04.2019 regarding Land Acquisition-Madurai District-Airport Extension Iyanpappakudi Village, Land Acquisition property, House site plot of Survey No.455, situated in Airport Road, Wing-3 of Avaniyapuram Town Panchayat, Madurai and consequently, direct the first respondent to pass an award fixing the compensation and paying the petitioner's compensation to land pertaining to land and building in No.455/2A1A, Door No.6, 0.78.50 Ares part situated in the Airport Road, Wing-3, Avaniyapuram Town Panchayat, Madurai.



2.Heard Mr.T.R.Subramanian, learned counsel appearing for the petitioner and Mrs.Vaishnavi, learned Government Advocate appearing for the respondents.

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3.The petitioner's land with building at Survey No.455 situated in Airport Road, Wing-3 of Avaniyapuram Town Panchayat, Madurai, had been acquired for a public purpose ie., extension of Madurai Airport.

4.In this context, the petitioner has already approached this Court by filing a petition in W.P(MD).No.24762 of 2018, where this Court by order dated 17.12.2018 has passed the following order:-

"The writ petitioner's lands were acquired for airport expansion. But compensation is yet to be paid.

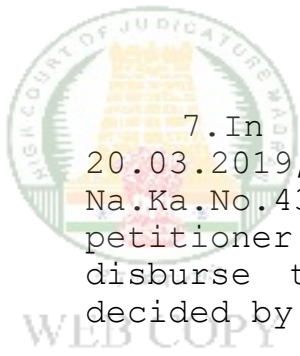
The learned Government Advocate admitted that award is yet to be passed. In the award enquiry the petitioner is entitled to be heard. In a similar matter, this Court has given a direction that the determination and disbursement of the compensation should be completed within a period of eight weeks from the date of receipt of a copy of the order.

2.Therefore, the very same direction is given in this case also. The respondents are directed to determine and disburse the compensation payable to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall be heard before the passing of the award. The rights of the writ petitioners to seek enhancement of the compensation is left open.

3.Accordingly, this writ petition is disposed of. No costs. "

5.The said order of this Court reached the respondents admittedly on 28.02.2019. However, it seems that, on 07.03.2019 the first respondent passed an order deciding the compensation payable to the petitioner.

6.In view of the said order having been passed on 07.03.2019 fixing the compensation payable to the petitioner, without even hearing the petitioner, despite the direction given to that effect by this Court in the order, referred to above, dated 17.12.2018, the petitioner seems to have approached the respondents to give him an opportunity of being heard.



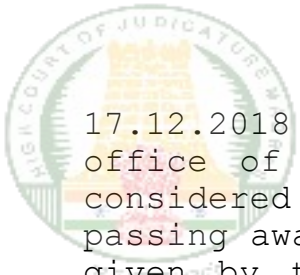
7. In this context, it is interestingly to note that, on 20.03.2019, the second respondent has issued a memo in Na.Ka.No.43/2018/ep.v., where the second respondent directed the petitioner to appear on 26.03.2019 with some documents, only to disburse the amount i.e., compensation, which has already been decided by the first respondent, vide his order dated 07.03.2019.

8. Sensing the proposal of the respondents to pay the compensation, which has already been awarded on 07.03.2019 without giving an opportunity of being heard to the petitioner, the petitioner not responded to the same and subsequently, the very same second respondent in Na.Ka.No.31/2018/ep.v., dated 25.04.2019 has sent yet another communication, where the second respondent has accepted that, even though orders have been passed by this Court in the earlier round of litigation, as referred to above, on 07.03.2019 since the first respondent/District Collector has passed an award, based on such award passed by the first respondent, amount of compensation has to be disbursed to the petitioner. Therefore, once again the second respondent by the said communication, dated 25.04.2019 directed the petitioner to appear before the second respondent for getting the compensation.

9. Therefore, aggrieved over the said communication i.e., dated 25.04.2019 issued by the second respondent, the petitioner has filed this writ petition with the aforesaid prayer.

10. I have heard the learned counsel for the petitioner, who would submit that, despite the order having been passed by this Court in the earlier round of litigation, as referred to above and the said order having been received by the respondents, unmindful of the same, award has been passed on 07.03.2019 by the first respondent, without even hearing the petitioner. Therefore, it is in violation of the earlier order passed by this Court and even though the same was brought to the notice of the respondents, they still stick on to the earlier stand and this has been indicated in the latest communication, dated 25.04.2019, where also, the second respondent reiterated the stand that, the award has already been passed by the first respondent on 07.03.2019, pursuant to which, amount has to be disbursed to the petitioner. Therefore, the petitioner was directed to appear before the second respondent with the relevant documents. Hence, the communication, dated 25.04.2019, since is not in consonance with the earlier order passed by this Court, feeling aggrieved, the petitioner has approached this Court. Hence, the learned counsel seeks indulgence of this Court against the impugned communication.

11. I have heard Mrs. Vaishnavi, learned Government Advocate appearing for the respondents, who, on instant instructions supplied by the second respondent, who appeared before this Court during the hearing, would submit that, though the orders of this Court dated



17.12.2018 made in W.P(MD).No.24762 of 2018 was received by the office of the respondents on 28.02.2019 and before the same was considered for conducting an enquiry with the petitioner before passing award, the first respondent pursuant to the earlier approval given by the Commissioner for Land Administration has passed the award on 07.03.2019. Therefore, pursuant to the said award passed by the first respondent, amount has to be disbursed to the petitioner and in order to disburse the same, the petitioner was directed to appear before the second respondent office twice, one is the earlier communication, dated 20.03.2019 and the latest one is communication, dated 25.04.2019 and therefore, the latest communication, since has been challenged before this Court, the second respondent is not in a position to disburse the amount as awarded by the first respondent on 07.03.2019.

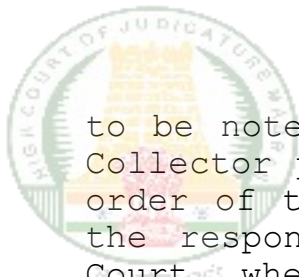
12.I have heard the learned counsel appearing for both sides and perused the materials placed before this Court including the relevant documents relied upon by both sides.

13.In the file produced before this Court, the second respondent has issued yet another communication, dated 16.07.2019 to the Government Advocate, where, after having traced the aforesaid developments, the second respondent has further stated that, the petitioner, who is the owner of the land, would be disbursed the amount of Rs.4,22,241/- (Rupees Four Lakhs Twenty Two Thousand Two Hundred and Forty One only) towards land value, solatium and interest etc., and insofar as the value of the building is concerned, a sum of Rs.4,70,300/- (Rupees Four Lakhs Seventy Thousand and Three Hundred only) has been fixed, which is to be disbursed, after getting approval from the Commissioner for Revenue Administration, the relevant portion of the said aspect of the letter of the second respondent, dated 16.07.2019 reads thus:-

“நில உடைமையாளர் டாக்டர்.ஜி.கங்கா, க/பெ.ஆர்.சுடர் என்பவருக்கு வழங்கப்பட வேண்டிய நில மதிப்பு, 100% கருணைத் தொகை, 12% வட்டித் தொகை ஆக மொத்த இழப்பீட்டுத் தொகை ரூ.4,22,241/- வழங்கப்பட வேண்டியுள்ளது. நில எடுப்பில் கட்டுப்பட்ட புலங்களில் கட்டிடங்கள் மற்றும் மரங்களுக்கான மதிப்பு பிரேரணைகள் தனியே ஒப்புதலுக்காக மாவட்ட ஆட்சித் தலைவர் அவர்களுக்கு அனுப்பப்பட்டுள்ளது. மாவட்ட ஆட்சித் தலைவர் அவர்களால் பரிந்துரை செய்யப்பட்டு, சென்னை நில நிர்வாக ஆணையர் அவர்களால் ஒப்புதல் செய்யப்பட்டபின் கட்டிட மதிப்பு ரூ.4,70,300/- தனியே வழங்கப்படும்.”

14.It is pertinent to be noted that, in the earlier round of litigation when the petitioner filed writ petition in W.P(MD). No.24762 of 2018, this Court passed an order to disburse the compensation, within a particular period and before deciding the compensation, the petitioner shall be heard.

15.The said order, dated 17.12.2018 admittedly has been received by the respondents on 28.02.2019. However, it is further



to be noted that, on 07.03.2019 only the first respondent/District Collector passed an award. Therefore on 07.03.2019, certainly, the order of this Court, dated 17.12.2018 was very much available with the respondents. Despite the availability of the order of this Court, where there is a direction to give an opportunity to the petitioner and conduct an enquiry before passing the award, the first respondent seems to have passed an award on the pretext that, already Commissioner for Land Acquisition has approved the proposal/quantum of compensation.

16.Be that as it may, since the very award has been passed by the first respondent only on 07.03.2019, this Court is of the view that, the said award cannot be given effect to and therefore, the same was not stand in the way to implement the order of this Court.

17.Thereafter also, it seems that two communications have been sent by the second respondent, one is dated 20.03.2019 and latest one, dated 25.04.2019, which is impugned herein, where also the second respondent seems to have stick on to the very same stand that, the award passed by the first respondent as early as on 07.03.2019, has to be implemented unmindful of the order/direction issued by this Court. The said proposal/action on the part of the second respondent cannot be approved by this Court, as the said direction also run contra to the order of this Court.

18.In that view of the matter, this Court is of the view that insofar as the petitioner is concerned, as directed by this Court, the respondents shall conduct an enquiry with the petitioner and after completing the enquiry, quantum of award payable to the petitioner for the land as well as the building of the land acquired, can be decided, comprehensively.

19.The said position also fairly accepted by the learned Government Advocate appearing for the respondents, of course after getting instant instructions from the second respondent, who would agree to strictly follow the direction issued by this Court in the earlier order, as referred to above.

20.For all these reasons and discussions made above, this Court is inclined to dispose of this writ petition with the following directions:-

"that the impugned communication dated 25.04.2019 issued by the second respondent cannot be given effect to and therefore, it is quashed. The matter is remitted back to the respondents with a direction that, the respondents shall conduct an enquiry with the petitioner by giving separate notice to that effect, within a period of one week from the date of receipt of a copy of this order directing the petitioner to appear either before the first respondent or before the second



respondent mentioning the date and time as well as the venue, with relevant documents to be enumerated in the said notice and on receipt of such notice, the petitioner shall appear before the respondent as indicated in the notice and on appearing, the petitioner would be given an effectual hearing, enabling the petitioner to put forth her case seeking for adequate compensation for the land acquired from her including the building and after completing the enquiry, it is open to the respondents to pass award within a period of two weeks, thereafter. Once the award is passed, it is for the petitioner to accept or to agitate the same, if she felt aggrieved in the manner known to law. The aforesaid exercise shall be strictly followed and to be completed within the time, as indicated above, by giving opportunity to the petitioner, as has been directed by this Court."

21. With the above directions, this Writ Petition is ordered, accordingly. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

rmk

To

1. The District Collector Madurai,
Office of the District Collectorate,
N.K.No.27/2009 Land Acquisition,
Airport Acquisition Extension Wing-1,
Madurai.

2. Special Tahsildar,
(Land Acquisition)
N.K.No.27/2009/L.A.
Airport Acquisition Extension Wing-1,
Madurai-625 020.

+1 CC to Mr.T.R.SUBRAMANIAN, Advocate (SR-82220[F] dated 19/08/2019)

+1 CC to SPL GP (SR-82847[F] dated 21/08/2019)

W.P.(MD)No.15609 of 2019

19.08.2019

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