



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2019

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) .19128 of 2018

R.Arumugam

... Petitioner

-vs-

1.The Special Tahsildar (Land Acquisition),
NH.226, Manamadurai,
Sivagangai District.

2.Parameshwari
(R2 is impleaded vide
Court order dated 19.02.2019
in W.M.P. (MD) .No.22257 of 2018)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus by calling for the records pertaining to impugned order passed by the respondent in his proceedings Na.Ka.A1/1/3/2013/(N.A) (N.H) dated 16.05.2018 and consequently direct the respondent to disburse the compensation amount due to him for the land in R.S.No.273/4 and 273/5 of an extent of 93.56 cents in Manamadurai Village, Sivagangai District.

For Petitioner : Mr.A.Sivasubramanian

For 1st Respondent : Mr.M.Rajarajan
Government Advocate

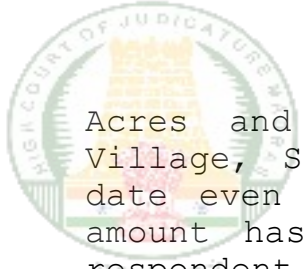
For 2nd Respondent : Mr.A.K.Manickam

O R D E R

The instant writ petition has been filed by the petitioner challenging the order dated 16.05.2018 passed by the first respondent in his proceedings Na.Ka.A1/1/3/2013/(N.A) (N.H) and to consequently direct the first respondent to disburse the compensation amount due to the petitioner for the land in R.S.Nos.273/4 and 273/5 of an extent of 93.56 cents in Manamadurai Village, Sivangangai District.

<https://hcservices.ecourts.gov.in/hcservices/>

2.It is the case of the petitioner that the first respondent acquired his lands measuring 93.56 cents of a total extent of 2



Acres and 12 cents in R.S.Nos.273/4 and 273/5 in Manamadurai Village, Sivagangai District as early as on 04.10.2016. But till date even after passing the Award on 06.10.2016, no compensation amount has been paid to the petitioner. But instead, the first respondent by the impugned order dated 16.05.2018, refused to pay the compensation to the petitioner, since according to him there is a dispute pertaining to the same property between the petitioner and the second respondent. It is the case of the petitioner that a suit for specific performance was preferred by the second respondent against the petitioner to enforce an agreement of sale dated 17.04.2008. By a judgment and decree dated 06.10.2016 passed in O.S.No.45 of 2009 by District Court, Sivagangai District, a specific performance decree was granted in favour of the second respondent. However, under the decree the property, which is the subject matter of acquisition was excluded from the decree and the second respondent was also permitted to withdraw the excess sale consideration deposited by him to the credit of the suit.

3. Aggrieved by the Judgment and decree dated 06.10.2016 passed in O.S.No.45 of 2009, the petitioner preferred an appeal before this Court in A.S.No.57 of 2017, which is still pending before this Court. Since the compensation amount was not paid to the petitioner, he has approached this Court by filing this writ petition.

4. The second respondent has also filed a counter affidavit before this Court wherein it has not been disputed that the decree for specific performance does not include the property which is subject matter of the land acquisition. It is also not stated as to whether the second respondent has also preferred any appeal as against the judgment and decree dated 06.10.2016 passed in O.S.No.45 of 2009 excluding the property which is the subject matter of land acquisition.

5. Heard Mr.A.Sivasubramanian, learned counsel appearing for the petitioner, Mr.M.Rajarajan, learned Government Advocate appearing for the first respondent and Mr.A.K.Manickam, learned counsel appearing for the second respondent.

6. In the judgment and decree dated 06.10.2016 passed in O.S.No.45 of 2009 by the District Court Sivagangai, the property which is subject matter of land acquisition has been excluded and that the specific performance decree in favour of the second respondent is restricted only to the portion of the property, which is not the subject matter of the land acquisition. It is also admitted by the learned counsel for the second respondent that no appeal has been filed by the second respondent as against the Judgment and decree dated 06.10.2016 passed in O.S.No.45 of 2009 and therefore the exclusion of the property which is subject matter of the land acquisition from the specific performance decree has now attained finality. Further, pursuant to the judgment and decree dated 06.10.2016 passed in O.S.No.45 of 2009, the second respondent was also permitted to withdraw the excess sale consideration paid



for the portion of the lands which is the subject matter of land acquisition.

8. For the foregoing reasons, this Court is of the considered view that the first respondent without application of mind has passed the impugned order dated 16.05.2018 rejecting the compensation claim made by the petitioner for the land measuring 93.56 cents at Manamadurai Village, Sivagangai District acquired by the first respondent for a public purpose.

9. At this juncture, the learned Government Advocate for the first respondent fairly submits that they have not disbursed the compensation amount for the land till date only due to the existence of a dispute between the petitioner and the second respondent and that they are not willing to disburse the same to any of the parties as directed by this Court.

10. In the result the impugned order dated 16.10.2018 passed by the first respondent in his proceedings Na.Ka.A1/1/3/2013/(N.A) (N.H) is hereby quashed and the first respondent is directed to disburse the compensation amount due to the petitioner for the land in R.S.Nos.273/4 and 273/5 measuring an extent of 93.56 cents in Manamadurai Village, Sivagangai District within a period of eight weeks from the date of receipt of a copy of this order.

11. With the aforesaid direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

To:

The Special Tahsildar (Land Acquisition),
NH.226, Manamadurai,
Sivagangai District.

+1 CC to M/s.A.K.MANICKAM, Advocate in SR-53442
+1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.53548
+1 CC to M/s.A.SIVASUBRAMANIAN, Advocate in SR-53930

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