

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.16262 of 2016

S.Jayalakshmi

.. Petitioner

Vs

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
Gandhi Irwin Road,
Egmore, Chennai - 8.
- 2.The District Revenue Officer (Land Acquisition),
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Koyambedu, Chennai - 92.
- 3.The Special Tahsildar (Land Acquisition),
Outer Ring Road Project, Unit-IV,
Chennai Metropolitan Development Authority,
Koyambedu, Chennai - 92.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the third respondent and quash the impugned order dated 18.04.2016 made in Na.Ka.19/2002Aa1/Alagu 6 on the file of the third respondent as the same is perverse, arbitrary, biased, illegal, untenable, smacks of malafide and colourable exercise of power and consequently direct the third respondent to make reference under Section 18 of the Land Acquisition Act to the Jurisdictional Civil Court with regard to enhancement of compensation in respect of the petitioner's land measuring hecatere 0.24.0 Aires (60 cents) comprised in Survey No.16/2A1 of Attanthangal Village, Ponneri Taluk, Thiruvallur District.

For Petitioner : Mr.N.R.Anantha Rama
For R1 : Mr.P.S.Ganesh
For R2 & R3 : Mr.M.Elumalai, GA

ORDER

Heard Mr.N.R.Anantha Rama, learned counsel for the petitioner, Mr.P.S.Ganesh, learned counsel appearing for the first respondent, and Mr.M.Elumalai, learned Government Advocate appearing for the respondents 2 and 3.

2. The petitioner seeks to quash the impugned proceedings dated 18.04.2016 passed by the third respondent with a consequential direction to the third respondent to make a reference under Section 18 of the Land Acquisition Act to the Jurisdictional Civil Court with regard to enhancement of compensation in respect of the petitioner's land measuring hecatere 0.24.0 Aires (60 cents) comprised in Survey No.16/2A1 of Attanthangal Village, Ponneri Taluk, Thiruvallur District.

3. Learned counsel for the petitioner submits that more or less an identical impugned order was put to challenge by one D.Chandra in W.P.No.9140 of 2016 and this Court, by order dated 11.03.2016, allowed the writ petition by quashing the impugned order and remanded the matter for fresh consideration. Therefore, it is stated by the learned counsel for the petitioner that similar order may be passed in this writ petition as well.

4. Learned Government Advocate, on instruction from the third respondent, who is present in the Court, submitted that on perusal of the file, notice under Section 12(2) of the Land Acquisition Act has not been served on the petitioner. Furthermore, the compensation has been retained in the revenue deposit. Therefore, the claim of the petitioner seeking enhancement of compensation should be considered.

5. At this juncture, it would be relevant to take note of the operative portion of the order dated 11.03.2016 passed in W.P.No.9140 of 2016 and the same reads as follows:-

"2. The petitioner has filed this writ petition challenging the order dated 10.02.2016 passed by the second respondent in and by which the petitioner's request for referring the matter to the Civil Court with regard to the enhanced compensation under Section 18 of the land acquisition Act has been rejected on the ground that it was time barred.

3. The petitioner would state that though the adjacent land owners have been granted compensation at the rate of Rs.95,000/- per cent pursuant to the settlement arrived at, the petitioner has been awarded only a sum of Rs.1,882/- per cent.

4. The case of the petitioner is that she had knowledge about the passing of Award only on receipt of communication dated 12.11.2015 which is said to have been received by her during the third week of November 2015. Therefore, the petitioner would state that six months period should be computed from the date of knowledge of the said proceedings.

5. This contention could not be placed before the second respondent owing to the fact that the second respondent has rejected the petitioner's claim without issuing notice to her. The land having been taken over, the second respondent should have adopted a very sensitive approach to the matter and examined as to whether the application was wholly barred by limitation or whether the factual contention raised by the petitioner was correct. However, it is for the petitioner to establish that he had knowledge of the Award only on receipt of communication dated 12.11.2015 which is stated to be received by her only during the third week of November 2015.

6. This Court is constrained to make such observation in the light of the fact that the land owner should be paid compensation which should be fair and reasonable. Therefore, the endeavour or approach of the second respondent should be in that angle. On the aboveground, the writ petition is allowed and the impugned order is quashed. The matter is remanded to the second respondent for fresh consideration after issuance of notice to the petitioner calling upon her to prove her contentions and pass orders on merits and in accordance with law considering the entire materials, within a period of four weeks from the date on which the personal hearing is concluded. No costs."

6. In the light of the above, the writ petition is allowed and the impugned order is set aside and the matter is remanded back to the third respondent for fresh consideration, who shall issue notice to the petitioner and give an opportunity to the petitioner to prove her contention and after taking note of the materials including the fact that notice under Section 12 (2) of the Act was not served on the petitioner, the third respondent is directed to pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No Costs.

Sd/-

Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
Gandhi Irwin Road,
Egmore, Chennai - 8.
2. The District Revenue Officer (Land Acquisition),
Outer Ring Road Project,
Chennai Metropolitan Development Authority,
Koyambedu, Chennai - 92.
3. The Special Tahsildar (Land Acquisition),
Outer Ring Road Project, Unit VI,
Chennai Metropolitan Development Authority,
Koyambedu, Chennai - 92.

+1cc to Mr.P.S.Ganesh, Advocate, SR.No.15483.

+1cc to Mr.N.R.Anantha Rama Krishnan, Advocate, SR.No.13637.

W.P.No.16262 of 2016

KK(CO)

CSR: 13.03.2020