

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.7497 of 2018

Selvam

Petitioner

vs.

The Land Acquisition Officer/Revenue Divisional Officer,
Office of the RDO/Sub-Collector,
Tirupattur - 635 601,
Vellore District.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to refer the matter to the Competent Civil Court, namely, Special Sub-Court (Land Acquisition Tribunal), Vellore for the determination of the Compensation under Section 18 of the Land Acquisition Act, 1894 insofar the acquired land of the petitioner's family property in Survey No.91/7 to an extent of 0.67.0 Hectors and Survey No.91/15 to an extent of 0.41.5 Hectors situated in Sundarampalli Village, Vellore District is concerned based on the petitioner's representation dated 27.01.2018.

For Petitioner : Mr.P.S.Kothandaraman

For Respondent : Mr.D.Raja

Additional Government Pleader

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondent to refer the representation made by the petitioner under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation.

2.It is seen from records that, Section 4(1) Notification was issued in the year 1983 and the lands that stood in the name of the father of the petitioner was also acquired in the said

process. An award was passed on 05.09.1988. The father of the petitioner died on 31.10.1993. Till he was alive he did not seek for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 by way of written application. After his death, the petitioner makes an application under the RTI Act in the year 2017 and seeks for the copy of the Award and based on the application, a copy of the Award was furnished to the petitioner. The petitioner makes a representation to refer under Section 18 of the Act for enhancement of compensation.

3.The learned counsel appearing on behalf of the petitioner submitted that, no notice was served on the father of the petitioner or the petitioner before the Award was passed and therefore, the petitioner was not aware of the Award that was passed in the year 1988. The learned counsel further submitted that the adjacent land owners have got an enhanced compensation and the petitioner is also entitled for the same. For that purpose, the petitioner requires the representation made by him to be referred to the competent Court.

4.The learned Additional Government Pleader appearing on behalf of the respondent submitted that the claim made by the petitioner is unsustainable in law. The learned counsel submitted that the Award was not questioned by the father till his life time and the petitioner questions an Award and seeks for enhancement in the year 2017 and whereas the Award was passed in the year 1988. The learned counsel submitted that, even if the petitioner seeks for enhanced compensation on the ground that the other land owners under the acquisition were given an enhanced compensation, the petitioner should have filed an application under Section 28(A) within three months from the date of the Award of the Court. Even, this was not done by the petitioner. Therefore, the learned counsel submitted that the relief sought for by the petitioner cannot be entertained by this Court.

5.This Court has carefully considered the submissions made on either side and also the materials available on record.

6.There is no dispute with regard to the fact that, Section 4(1) notification was issued in the year 1983 and ultimately, the Award was passed on 05.09.1988. During that point of time, the father of the petitioner was alive and he did not seek for enhancement of compensation under Section 18 of the Act. The father of the petitioner died on 31.10.1993. Thereafter, the petitioner made an application under RTI Act in the year 2017 and got a copy of the Award and thereafter, he sought for referring the dispute to the Court seeking for enhancement of compensation.

7.The land owner has to seek for enhancement of compensation under Section 18 of the Act by way of written application within six weeks from the date of receipt of the Award, failing which, the claim will be barred by limitation. This Court has categorically held that the Collector has no power to condone the delay in filing the application under Section 18(1) of the Act and this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot issue a mandamus to entertain an application which has been filed beyond the limitation prescribed under the Act, in violation of the Statute.

8.Even when the claimant does not make a reference under Section 18, he will be entitled to claim enhanced compensation on par with others, where the compensation is enhanced, under Section 28A of the Land Acquisition Act. However, there is a limitation that has been provided for filing an application under Section 28(A), which is, three months from the date on which the Award is pronounced. Beyond the stipulated period of limitation, the Collector has no powers to condone the delay, since the statute itself provides the period and the limitation Act cannot be invoked. Useful reference can be made to the judgment of the Hon'ble Supreme of India in the case of Poppat Bahiru Govardhane and others vs. Special Land Acquisition Officer and another reported in 2013 10 SCC 765.

9.In the present case, the father of the petitioner, while he was alive, never made any attempt to question the Award. He died in the year 1993. Thereafter, in the year 2017, the petitioner makes an application under the RTI Act and seeks for the copy of the Award. In the considered view of this Court, there is absolutely no justification for the petitioner to seek for such enhancement at such a belated stage and this Court cannot entertain the present writ petition and direct the respondent to refer the representation for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894. This Court does not find any merits in the present writ petition and accordingly the same is dismissed. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr

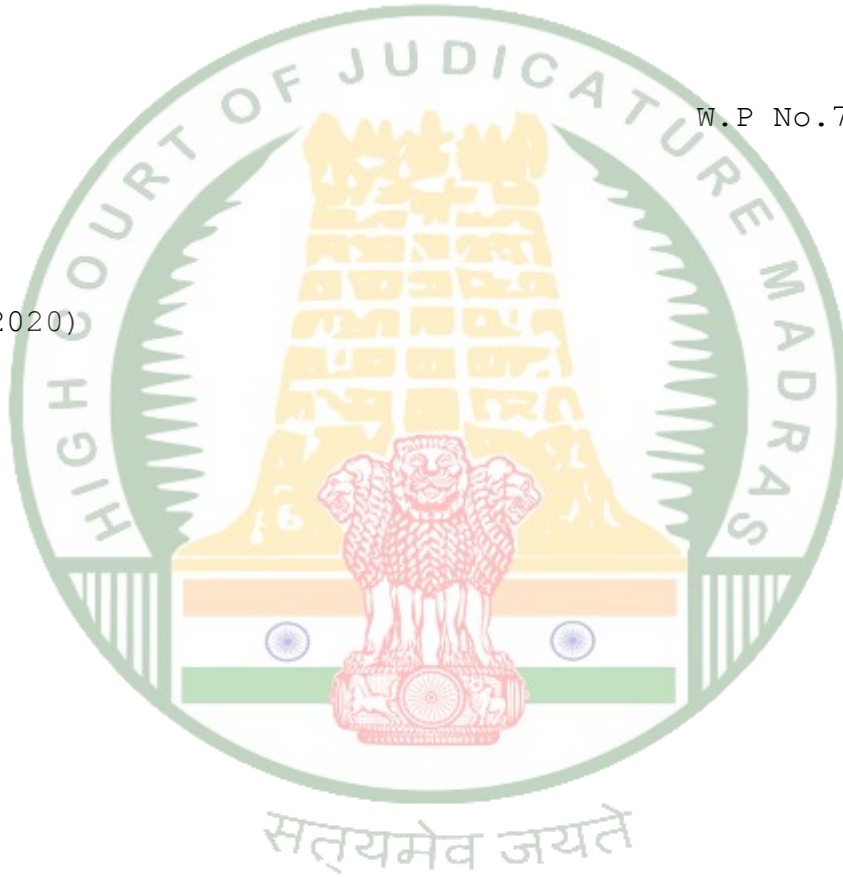
To

The Land Acquisition Officer/Revenue Divisional Officer,
Office of the RDO/Sub-Collector,
Tirupattur - 635 601,
Vellore District.

+1cc to the Government Pleader, High Court, Madras, Sr.No.23671
+1cc to Mr.P.S.Kothandaraman, Advocate, Sr.No.23488

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PPA (CO)
GS (08/06/2020)



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