

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 10318 of 2019

M.Valimuthu

... Petitioner

Vs.

1. The District Collector,
Tiruvallur District,
Tiruvallur.
2. The Special Tahsildhar,
(Land Acquisition),
Unit-2, Krishna Water Supply Project,
Tiruvallur.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings passed by the Second Respondent herein in O.Mu.No. 90/2015, dated 27.12.2018 and quash the same and consequently direct the respondents herein to pay compensation for Petitioner's lands acquired for the purpose of Krishna Water Supply Canal Project, measuring 62 cents of agricultural land situated in Survey No. 296 at No. 55, Pullarambakkam Village, Tiruvallur Taluk and District, at the rate of Rs. 2,700/- per cent in par with the other land owners covered under the same award, under Section 28-A of the Land Acquisition Act.

For Petitioner : Mr. G. Karthikeyan

For Respondents : Mr. D. Raja

Additional Government Pleader

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O R D E R

Heard Mr. G. Karthikeyan, Learned Counsel for the Petitioner and Mr. D. Raja, Learned Additional Government Pleader for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Petitioner an extent of 62 cents of agricultural land situated in Survey No. 296 at No. 55, Pullarambakkam Village, Tiruvallur Taluk and District, was acquired under the provisions of the Land Acquisition Act, 1894, for the purpose of the Krishna Water Project. The compensation for acquiring the land had been fixed in award No. 2/1992-93 dated 22.08.1992. As there was a dispute between the Petitioner and the adjacent land owners in respect of the share in the well, the same was referred for adjudication in L.A.O.P. No.415/1994 under Sections 30 and 31(2) of the Land Acquisition Act, 1894. There was a compromise between the parties and by order dated 04.12.1995, there was apportionment of share in the common well and the quantum of compensation payable for each of the owners was determined. It was claimed by the Petitioner that he subsequently came to know that the adjacent landowners in respect of that acquisition had sought for a reference under Section 18 of the Land Acquisition Act, 1894, for enhancement of compensation in which the value of the land was fixed at Rs.3860/- per cent, but, on appeal, this Court had reduced the compensation amount to Rs.2,700/- per cent. At that stage, the Petitioner had made a representation dated 20.06.2013, seeking payment of enhanced compensation on par with the adjacent landowners invoking Section 28-A of the Land Acquisition Act, 1894, which was rejected by order dated 17.07.2013 passed by the Second Respondent. The Petitioner challenged that decision in the Writ Petition in W.P. No. 26674 of 2013 before this Court, which was dismissed at the admission stage on 25.09.2013 by an elaborate order. It is not in dispute that the Petitioner had not pursued the matter any further and it had attained finality. While the matter stood as narrated supra, the Petitioner claims to have made a fresh representation dated 22.12.2018 to the Second Respondent requesting to refer his case under Section 18 of the Land Acquisition Act, 1894, to the jurisdictional Civil Court on the ground that he had made timely representations on 02.09.1992, 12.03.1993 and 15.12.1995 in that regard, but no action had been taken for the same. As that representation was rejected by an order dated 27.12.2018, the Petitioner had again approached this Court qua this Writ Petition challenging that decision and seeking a reference under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation.

3. Inasmuch as the claim made by the Petitioner for enhancement of compensation for the land acquired from him has been rejected by this Court in the order dated 25.09.2013 in W.P. No. 26671 of 2013 and the Petitioner did not prefer any appeal thereon, the finality of that decision certainly precluded him from resurrecting the stale claim under the guise of making fresh representation, as deplored by the Hon'ble Supreme Court of India in C.Jacob -vs- Director of Geology & Mining [(2008) 10 SCC 115], and that too, after inordinate and unexplained delay

of more than five years, and then challenge its rejection by way of another Writ Petition portraying as if it was a different cause of action from the earlier one. It is needless to recapitulate here that the law is beyond cavil that what cannot be granted directly cannot be achieved indirectly. The effects of finality of litigation, as deduced from the authoritative pronouncements of the Hon'ble Supreme Court of India in *M.Nagabhushana -vs- State of Karnataka* [(2011) 3 SCC 408] and *Union of India -vs- Major S.P.Sharma* [(2014) 6 SCC 351], can be summarized as under:-

(a) The doctrine of finality of litigation is an outcome of two age old salutary principles of public policy, viz., *interest reipublicae ut sit finis litium* which signifies that it is in the interest of the State that there should be an end to litigation, and the other principle, viz., *nemo debet bis vexari, si constat curiae quod sit pro una et eadem causa* conveys that no one ought to be vexed twice in a litigation if it appears to the Court that it is for one and the same cause. One important consideration of public policy is that the decisions pronounced by courts of competent jurisdiction should be final, unless they are modified or reversed by appellate authorities or by adopting a procedure prescribed by law. The other principle is that no one should be made to face the same kind of litigation twice over, because such a process would be contrary to considerations of fair play and justice. In the absence of such principle, great oppression might result under the colour and pretence of law in as much as there will be no end of litigation and a resourceful and malicious litigant may succeed in infinitely vexing his opponent by repetitive suits and actions. This may compel the weaker party to relinquish his right. The universally acclaimed rule of *res judicata* has been evolved to prevent such anarchy.

(b) The rule of *res judicata* is common to all civilized system of jurisprudence to the extent that a judgment after a proper trial by a court of competent jurisdiction should be regarded as final and conclusive determination of the questions litigated and should forever set the controversy at rest. That is why it is perceived that the plea of *res judicata* is not a technical doctrine but a fundamental principle which sustains the Rule of Law in ensuring finality in litigation. This principle seeks to promote honesty and a fair administration of justice and to prevent abuse in the matter of accessing court for agitating on issues which have become final between the parties. Any proceeding which has been initiated in breach of the rule of *res judicata* is *prima facie* a proceeding which has been initiated in abuse of the process of Court.

(c) If a litigant has chosen to put his case in one way, he cannot thereafter bring the same transaction before the court, put his case in another way and say that he is relying on a new cause of action. An adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have had decided as incidental to or essentially connected with subject-matter of the litigation and every matter coming into the legitimate purview of the original action both in respect of the matters of claim and defence. It also does not lose its authority merely because it was badly argued, inadequately considered and fallaciously reasoned. Such consequence follows both to an order from which an appeal lies but has not been preferred, as well as to an order from which no appeal is provided. This precept is referred in legal parlance as 'constructive res judicata'. In a country governed by the Rule of Law, finality of judgment is absolutely imperative to which great sanctity is attached and it is not permissible for the parties to re-open the concluded judgments of the court as it would not only tantamount to merely an abuse of the process of the court but would have far reaching adverse affect on the administration of justice.

(d) It is an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which has already been tried and decided earlier against him. The re-agitation may or may not be barred as res judicata, but if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted.

In the light of this legal position viz-à-viz the facts of the case on hand, it is not possible to entertain this Writ Petition, which is prosecuted in abuse of the legal process.

4. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dm/sj

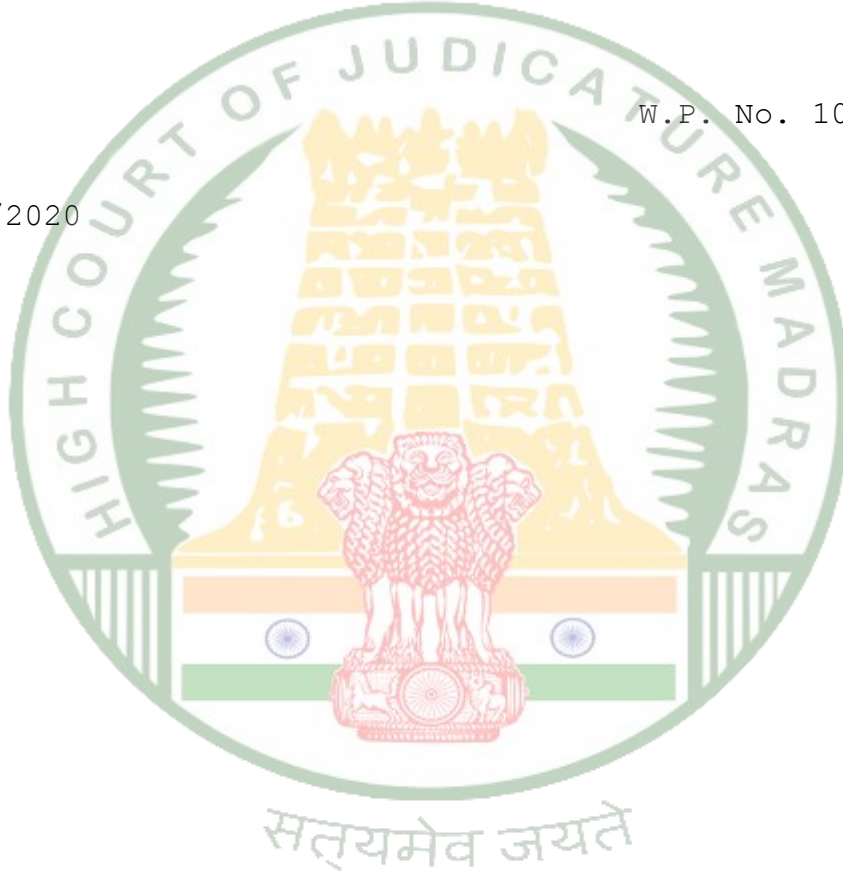
To

1. The District Collector,
Tiruvallur District,
Tiruvallur.
2. The Special Tahsildhar,
(Land Acquisition),
Unit-2, Krishna Water Supply Project,
Tiruvallur.

+lcc to Mr.G.Karthikeyan, Council for Petitioner, S.R.No.5920

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NR(CO)
KKV/27/05/2020



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